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CASE OF THE "SPRINGBOK."

No. 1.

Mr. Begbie to Earl Russell.—(*Received February* 28.)

My Lord, 4, *Mansion House Place, London, February* 27, 1863.

I HAD the honour of an interview yesterday with Mr. Hammond regarding a very serious grievance inflicted on me and others in the capture of the barque "Springbok" by the United States' steamer "Sonoma."

This vessel was chartered by me for the conveyance of a cargo of lawful merchandize from London to Nassau, New Providence; was therewith loaded, and left this port in December last, with the sole intention of landing the entire cargo at Nassau for sale in that market.

I have the honour of inclosing herewith the following documents,* viz.:—

1. Copy of Charter-party.
2. Copy of entries at Custom-house.
3. Manifest of Cargo.
4. Copy of letter of instructions to the captain of the "Springbok" on his leaving for Nassau.
5. Epitome of the Cargo showing its nature and value.

Acting under the best legal advice I could here obtain, as well as believing that I have an undoubted right to make such a shipment to Nassau free of any risk of capture, I consider that this seizure is a gross violation of international law, and under that belief I now address your Lordship in the hope that your Lordship will at once forward these documents to the British Ambassador at Washington, requesting that the case may receive prompt attention; and, I trust, with instructions that, if my representations prove correct, the "Springbok" and cargo be forthwith released and be allowed to complete the voyage to Nassau.

I may further, perhaps, be permitted to add that another vessel I loaded at the same time, the "Aries," under a similar charter had, at the date of my last advices, 1st instant, nearly finished discharging her cargo at Nassau; and also that many sales are advised, and remittances are this day received for some of these sales.

The loss to those interested in the "Springbok's" cargo, exclusive of the considerable capital involved, from loss of market may be very great, and our insurance no longer protects us, having been effected solely to Nassau, and free of all war risk, which I did not, nor do I now, consider we ran any danger from, legally or morally.

Your Lordship will see that the only items which, if they had constituted the bulk of the cargo, could have been considered munition of war, are twelve swords and twelve sword bayonets, value 36*l.*—this in a cargo of the value of 36,000*l.*; and I need hardly add that these were sent out for local sale and use at Nassau, and that there can be no pretence for suggesting that they were shipped for the purposes of the belligerents. Ten kegs in the Customs entry are erroneously named as refined saltpetre; they contain nitrate of potash—half-a-ton.

I have, &c.

(Signed) THOS. STIRLING BEGBIE.

* Not printed.

No. 2.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, February* 27, 1863.

I AM directed by Earl Russell to acknowledge the receipt of your letter of this day's date, inclosing papers respecting the capture of your vessel, the "Springbok," by a United States' cruiser; and I am to state to you, in reply, that this case shall be considered by Her Majesty's Government.

I am, &c.
(Signed) E. HAMMOND.

No. 3.

Mr. Begbie to Earl Russell.—(Received March 11.)

My Lord, 4, *Mansion House Place, London, March* 10, 1863.

I HAVE the honour to acknowledge receipt of your Lordship's letter of the 27th ultimo, informing me that the case of the "Springbok's" seizure by the United States' Government steamer "Sonoma" should be considered by Her Majesty's Government.

This case appearing to me, and also to those to whom I have submitted it, a very distinct and gross violation of my rights, and the amount involved being considerable, may I beg to inquire whether your Lordship is now in a position to inform me whether the necessary steps will be taken to obtain restitution of "Springbok" and cargo forthwith. The owners have received from their captain a statement of this capture, and the subsequent treatment of captain, officers, and crew, a copy of which has been transmitted to your Lordship, and I would hope that such treatment of British subjects and property cannot surely be allowed to be pursued with impunity.

I have, &c.
(Signed) THOS. STIRLING BEGBIE.

No. 4.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, March* 12, 1863.

I AM directed by Earl Russell to acknowledge the receipt of your letter of the 10th instant, relative to your vessel, the "Springbok," and I am to inform you that the case is still under the consideration of Her Majesty's Government.

I am, &c.
(Signed) E. HAMMOND.

No. 5.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, March* 14, 1863.

MR. CONSUL ARCHIBALD will have reported to your Lordship the capture of the British barque "Springbok" on her voyage from England to Nassau, and her conveyance into New York for adjudication.

I inclose copies of letters which I have received from the parties interested in the vessel and cargo,* and which I have referred to the Law Officers of the Crown; and also a copy of a letter that I have caused to be addressed to the parties.

There does not appear to be any justification for the seizure of this vessel and her cargo. The supposed reason, namely, that there were articles in the manifest not accounted for by the captain, certainly does not warrant the seizure, more especially as the destination of the vessel appears to have been *bonâ fide* neutral.

* Nos. 1 to 4.

But inasmuch as it is probable that the vessel has by this time been carried before a Prize Court of the United States for adjudication, and that an adjudication may shortly follow, if it has not already taken place, the only instruction that I can at present give to your Lordship is to watch the proceedings and the Judgment of the Court, and eventually to transmit to me full information as to the course of the trial and its results.

I am, &c.
(Signed) RUSSELL.

No. 6.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, March* 14, 1863.

HER Majesty's Government having now considered, in communication with the Law Officers of the Crown, the case of the British barque "Springbok," whose capture by an American cruiser, and subsequent conveyance to New York, form the subject of your letters of the 27th February and 10th instant, I am directed by Earl Russell to state to you that, inasmuch as it is probable that the "Springbok" has by this time been carried before a Prize Court of the United States for adjudication, and that an adjudication may shortly follow, if it has not already taken place, Her Majesty's Government are not prepared to take, at present, any other steps than to instruct Lord Lyons to watch the proceedings and Judgment of the Court; and only after the conclusion of the trial, and on full information as to its course and results, will Her Majesty's Government be in a position to determine whether any, and if so, what, application should be made to the Government of the United States in the matter.

In the meanwhile you will do well not to neglect to exercise your own right to appear, and to establish the true facts of the case, and in the end, to claim the release of the vessel and cargo, with costs and damages.

I am, &c.
(Signed) E. HAMMOND.

No. 7.

Mr. Begbie to Earl Russell.—(Received March 19.)

My Lord, 4, *Mansion House Place, London, March* 18, 1863.

I HAVE the honour to acknowledge the receipt of your Lordship's letter of the 14th instant, copy of which I transmitted to my agent at New York by Saturday's steamer.

I am to-day in receipt of a letter from that gentleman, of which I inclose a copy, and I would most respectfully call to your Lordship's attention that, by the merest chance, the "Springbok" and cargo escaped legal condemnation by default in appearance, so utterly was I unprepared to expect any such treatment; and also that a remonstrance against this seizure has been made by the British Minister, Lord Lyons, which remonstrance I would submit should justify your Lordship in affording me more decided protection in such a glaring case as this is, than merely sending out instructions to watch the proceedings when it comes on for trial, provided, of course, the Crown lawyers have given their opinion, as I cannot but believe they must have done, that this seizure is illegal and unjustifiable.

Several seizures have, I believe, been made, and great delay arises in the trials. One in particular has come to my knowledge, that of a vessel seized by one of the United States' cruisers in December 1861, and in respect to the trial of which vessel and cargo I am informed your Lordship sent similar instructions to the British Minister at Washington, viz., to watch the proceedings, and the case remains untried, the owners being unable to obtain a trial, to their great loss. In that case the cargo consisted almost entirely of munitions of war, and it is considered, with justice apparently that the delay made in that case arises from the belief on the part of the United States' Government authorities that even in her case a conviction cannot be obtained. I naturally fear that in the case of the "Springbok," whose cargo consists almost exclusively of Manchester and foreign cotton goods, groceries, &c., as has been

shown to your Lordship by an epitome of the invoices, a similar policy may be adopted to the serious inconvenience and heavy loss of myself and others interested in the cargo. On this system the United States' Government cruisers may seize any British vessel and cargo, carry her into a United States' port for adjudication, and thereafter defer trial of the case for an indefinite period.

Surely, my Lord, it can never be the intention of Her Majesty's Government to permit British subjects to be thus infamously treated, and I have most respectfully to urge upon your Lordship a reconsideration of your decision, as stated in your letter of the 14th instant, trusting that your Lordship will be pleased to send such instructions to the British Minister at Washington as will obtain the release of the "Springbok" and cargo, and support of my claim for compensation for the loss I sustain by such a gross outrage as has been perpetrated; or, should such a course be deemed inexpedient, that at least such instructions will be sent as will effectually prevent the delay in trial of which we have, in such a case as the "Springbok," so just a reason of complaint, should such delay arise.

I have, &c.
(Signed) THOS. STIRLING BEGBIE.

Inclosure in No. 7.

Mr. Edwards to Mr. Begbie.

(Extract.) *New York, March* 3, 1863.

I UNDERSTAND you chartered the "Springbok" on the idea that I am to watch your interests. Be so good as to send your copy of charter-party, and any bills of lading you may hold, full power of attorney for me to act, and any information you think I ought to receive. A remonstrance against the seizure of this vessel has been made, I know, by the British Minister, Lord Lyons; but our Department of State has not up to the present moment made any direct response. It is still possible she may be released; she ought to be, for the seizure is a monstrous one: but still it is, at this eleventh hour, absolutely necessary to take care of legal rights.

The master of the "Springbok" has just come to me, and just in time; for if he had let to-morrow go over, the vessel and her cargo would have been condemned by default. I shall appear in Court in the morning, enter an appearance for owners of cargo, as well as vessel, ask for time, and try to get the British Consul to intervene for cargo until I can hear fully from you.

No. 8.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, March* 26, 1863.

I AM directed by Earl Russell to inform you that his Lordship has considered, in communication with the Law Officers of the Crown, the various circumstances in connection with the case of the "Springbok," set forth in your further letter of the 18th instant, and that his Lordship regrets that he is unable to take at present any further steps in the matter than those pointed out in my letter of the 14th instant.

I am, &c.
(Signed) E. HAMMOND.

No. 9.

Lord Lyons to Earl Russell.—(Received April 13.)

My Lord, *Washington, March* 30, 1863.

I HAVE the honour to inclose copies of a correspondence which I have had with Mr. Consul Archibald and with Mr. Seward relative to the capture of the British barque "Springbok."

I thought that it would be no more than fair, both to the Government of the United

States and to the owners of the "Springbok," to submit in time to Mr. Seward's consideration the suggestion of the master that the expense of legal proceedings before the Prize Courts should be avoided. I did not, however, consider that it would be proper for me, having only the *ex parte* statement of the master before me, to press the matter, if the United States' Government, on comparing that statement with the Reports of its own officers, should determine to let the legal proceedings take their course.

I have now had the honour to receive your Lordship's despatch of the 14th instant concerning this case. I am happy to think that the view which I have taken of the case does not differ substantially from that taken by your Lordship.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 9.

Consul Archibald to Lord Lyons.

My Lord, *New York, February* 12, 1863.

I HAVE the honour to report to your Lordship the arrival at this port yesterday of the British barque "Springbok," in charge of a prize crew, having been captured on the 3rd instant by the United States' Ship "Sonoma," off the Bahama Bank, while on a voyage from London to Nassau with a cargo consisting of leather, salt, shoes, &c.

This vessel is reported to have been captured in consequence of having some articles in the manifest, which the master could not account for.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 2 in No. 9.

Consul Archibald to Lord Lyons.

My Lord, *New York, February* 18, 1863.

REFERRING to my despatch of the 12th instant reporting the capture and arrival at this port of the barque "Springbok," I now have the honour to call your Lordship's attention to the circumstances of this case, as detailed in the affidavit of the master, this day made before me, and herewith inclosed.

So far as I have been enabled to ascertain the facts of this case, I feel bound to say that a more unjustifiable seizure of neutral property has rarely taken place.

I beg leave to call your Lordship's attention at the same time to the statement in the affidavit as to the abstraction of the clothing of the seamen during the time they were in the House of Detention, and while the ship was in charge of the prize crew or the agents of the Prize Commissioners.

In the reasonable belief that his vessel would be restored to him, the master has thus far abstained from incurring the expense of legal advice and proceedings; and will await the reply of your Lordship to this Report in the hope that, should your Lordship deem the case one in which an application for restitution should be made in the first instance to the United States' Government, proceedings on the part of the master in the Court may be rendered unnecessary.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 3 in No. 9.

Affidavit of Captain J. May relative to Capture of the "Springbok."

PERSONALLY appeared before me, the Undersigned, Edward Mortimer Archibald, Her Britannic Majesty's Consul, New York, James May, Commander of the barque "Springbok" of Falmouth, official No. 20 (114), who, being duly sworn upon the Holy Evangelists to depose the truth, testified and deposed as follows:—

That the said barque "Springbok" loaded at the Victoria Docks, London, a cargo

of general merchandize shipped by Messrs. Begbie and Co., and consigned to B. W. Hart, Esq., Nassau, New Providence, that by the terms of the charter-party, so far as deponent recollects them, the cargo was to be taken from the ship's side at Nassau, freight to be paid for the same, at the rate of 25*s.* sterling per ton with ordinary primage, that the said ship sailed from London, touched at Falmouth, and departed from thence on the 20th December last.

And thus deponent further saith that while pursuing the said voyage on Tuesday, the 3rd February instant, at 7 o'clock A.M., at which time the said barque was in north latitude 25° 35′ and in west longitude 73° 40′, by chronometer (which position was verified and ascertained to be correct by subsequent comparison with the reckoning of the United States' Ship "Sonoma" hereafter mentioned) the said barque was hailed by the said Ship "Sonoma" and ordered to heave to, which order was complied with, when an officer from the "Sonoma" came on board the "Springbok" and asked to see the barque's papers, which were accordingly all handed to and examined by said officer, who then directed deponent to go with him on board the "Sonoma," and bring all papers relating to the ship and cargo: that deponent then proceeded with the officer on board the "Sonoma" and delivered the papers of the "Springbok" to Captain Stevens of the "Sonoma" who examined them all and said that the manifest did not specify the contents of the cases and bales, more than that they were merchandize, the marks and numbers being specified only. Deponent replied that as master he was not supposed to know, and had not the means of knowing the contents of all the packages; that from all he, deponent, knew and believed, it was legal merchandize, and shipped as such, that he had signed the bills of lading in the usual way, "contents and weight unknown." Deponent told him that a certain portion of the cargo he did know from seeing it shipped, consisting of tea, coffee, spices, tin, woollens, &c. That deponent delivered to Captain Stevens the ship's register, articles, charter-party, bills of lading, consignee's letter, letter of instructions from shippers, Customs clearance, London, light bills, log book, cargo book, manifest, and all the papers that deponent had relating to the barque and her cargo.

Captain Stevens then said that he must seize the said barque, and he should keep all the papers and send the vessel to an American port, as deponent understood, to be tried, that deponent was greatly surprised at this, and asked Captain Stevens if he really meant it, and repeated to Captain Stevens more than once that he knew as deponent now solemnly swears that the said barque was bound direct to the said port of Nassau, the whole of the cargo to be delivered there, and at no other port or place.

That deponent then and there verbally protested against the seizure of the vessel, that Captain Stevens then ordered a prize crew to be made up consisting of eight men, who went on board the barque at about 1 o'clock P.M. carrying arms with them, the prize master having charge of the ship's papers sealed up, that deponent was sent back at the same time.

That on coming on board the prize master mustered the crew of the "Springbok" and told them their vessel was taken as a prize, and asked them whether they preferred to remain and assist him in taking the ship to New York or go on board the man-of-war. The crew all replied they would remain by the ship and go to New York in her, and all did together with the deponent, assist in working the ship to New York, deponent conducting the navigation, and being desirous of getting to the port as speedily as possible.

That the said barque arrived at New York on the 11th instant; and on the following day this deponent with the whole of his crew, nine in all, were taken to the House of Detention, where they were all detained until Saturday the 14th instant, when this deponent, with his mate, boatswain, and steward, were examined before the Commission, and were then all released in the afternoon. That on the day the deponent reached the House of Detention he addressed a letter to the British Consul, New York, stating the seizure of the "Springbok" and place where she was captured, and applying for his assistance; which letter was delivered to the officer in charge of the House of Detention unsealed, which letter deponent was informed by said officer would go safely through the Marshall's office.

That deponent has this day been informed by the Consul that no such letter ever reached him.

And deponent further saith that during the time this deponent and crew were confined in the House of Detention, the greater part of the clothing of the crew was stolen, and carried away from the said barque, and further that the barque's bell, compasses, and small stores have been taken away, as well as also deponent's chronometer,

barometer, charts, and sextant, likewise a sextant belonging to the mate; and the vessel has been much neglected.

And deponent lastly saith that at the time of being hailed and brought to by the "Sonoma" the said barque was out of sight of land, steering west for the purpose of making the passage between the Islands of Eleuthera and Abaco, it being the only ship's channel for vessels from the eastward for Nassau, and was then about 150 miles distant from, and to the eastward of the said channel, and more than that distance eastward from Nassau, the barque's port of destination.

And lastly deponent positively and solemnly swears that the said barque at the time of her capture, as aforesaid, was on a lawful voyage, bound to the said Port of Nassau, there to deliver her cargo as by charter-party, and that but for the said seizure of the said vessel would have been navigated and taken by deponent direct to the said port and to none other.

(Signed) JAMES MAY.

Sworn at the British Consulate, New York, by the said James May, this 18th day of February, 1863.

(Signed) E. M. ARCHIBALD,
Her Britannic Majesty's Consul.

Inclosure 4 in No. 9.

Lord Lyons to Mr. Seward.

Sir, *Washington, February* 25, 1863.

I HAVE the honour to submit to you in original an affidavit, made before Her Majesty's Consul at New York, by the master of the British barque "Springbok," which was captured on the 3rd of this month by the United States' ship "Sonoma."

The master deems it to be so clear that the capture was made without cause that he has requested me to call the attention of the Government of the United States to the facts in the hope that redress may at once be given, and that he may thus escape the delay and expense of legal proceedings.

I shall be much obliged if you will take the case into consideration and do me the honour to make me an early communication respecting it.

I beg you to be so good as to return to me the original affidavit.

I have, &c.
(Signed) LYONS.

Inclosure 5 in No. 9.

Lord Lyons to Consul Archibald.

Sir, *Washington, February* 25, 1863.

WITH reference to your despatches of the 12th and 18th instant, I have to inform you that I have submitted the affidavit of the master of the "Springbok" to the United States' Government, and have stated to that Government that it is hoped that redress may be given at once for the capture of the vessel, and that thus the delay and expense of legal proceedings may be escaped.

You should, however, advise the master not to run any risk of prejudicing the defence of the vessel before a Prize Court hereafter by neglecting to take proper measures at once. No application made by this Legation for the release of a vessel previous to legal proceedings has hitherto been successful.

I beg you to forward to me an authenticated copy of the affidavit, as I have sent the original to the United States' Government.

I am, &c.
(Signed) LYONS.

Inclosure 6 in No. 9.

Mr. Seward to Lord Lyons.

My Lord, *Department of State, Washington, February* 26, 1863.

I HAVE the honour to acknowledge the receipt of your communication of yesterday relative to the capture of the British barque "Springbok" by the United States' Ship "Sonoma," and to state that an inquiry and examination will promptly be made in the case.

The original affidavit which accompanied your note is herewith returned to you.

I have, &c.

(Signed) WILLIAM H. SEWARD.

Inclosure 7 in No. 9.

Mr. Seward to Lord Lyons.

My Lord, *Department of State, Washington, March* 25, 1863.

IN reply to the letter of this Department, which was accompanied by a copy of your communication of the 25th ultimo relative to the capture of the British barque "Springbok" by the United States' Ship "Sonoma," the Secretary of the Navy represents that, from a brief report made to the Navy Department by Commander T. R. Stevens, commanding the United States' steamer "Sonoma," it appears that he seized the "Springbok" on the 3rd February, 1863, at sea in latitude 25° 35′ north, and longitude 73° 40′ west because she had no proper manifest, and nothing to show the character of her cargo, which the captain of the vessel said he was ignorant of. Mr. Weller further adds that if the vessel has passed into the hands of the Court the Navy Department cannot well interfere.

I have, &c.

(Signed) WILLIAM H. SEWARD.

Inclosure 8 in No. 9.

Lord Lyons to Consul Archibald.

Sir, *Washington, March* 27, 1863.

WITH reference to my despatch of the 25th ultimo and to your despatches of the 12th and 18th February last, I transmit to you a copy of a note which I addressed to the Secretary of State of the United States on the 25th ultimo relative to the capture of the "Springbok," and a copy of a note in reply which I received yesterday.

You will inform the master of the "Springbok" of the present state of the case, and, if necessary, write to me after having done so.

I am, &c.

(Signed) LYONS

Inclosure 9 in No. 9.

Lord Lyons to Consul Archibald.

Sir, *Washington, March* 30, 1863.

WITH reference to my despatch of the 27th instant, I inclose, for your information and guidance, a copy of a letter which Earl Russell has caused to be addressed to parties in England who have applied for his Lordship's intervention in the case of the "Springbok." You will give the master of the "Springbok" advice in conformity with the inclosed letter.

I am, &c.

(Signed) LYONS.

No. 10.

Mr. Begbie to Earl Russell.—(*Received April* 29.)

My Lord, 4, *Mansion House Place, London, April* 28, 1863.

REFERRING to my letter of the 18th March, I beg now to inclose copy of a letter received this day dated New York, 14th April, 1863, which confirms the views I have expressed that the "Springbok" and similarly unjustifiable captures have been, and will continue to be, made, however illegal, with the view of causing delay in the arrival of goods at markets where vessels dealing with the Confederate States arrive and depart.

May I beg to be informed whether I am to expect any aid from Her Majesty's Government in relief of the painful position in which I am placed by my goods being violently and illegally taken from me and indefinitely detained in warehouse at New York while my agents obtain a trial?

As my letters have been opened by the Post Office at New York, I beg that the name and address of the inclosed letter may be considered private.

I have, &c.

(Signed) THOS. STIRLING BEGBIE.

Inclosure in No. 10.

Messrs. Worwell and Co. to Mr. Begbie.

Sir, *Box* 4791, *Post Office, New York, April* 14, 1863.

NO doubt you will have received advice from Mr. Edwards respecting the issue of yesterday's attempt to bring on the trial of the "Springbok." Mr. Edwards, Mr. Kursheedt, and a third gentleman argued at some length, but in consequence of some trifling technicality, Judge Betts (who is a very arbitrary old man) dismissed the case until next month. As you very truly remark, this procrastination is only to annoy and to keep the cargo here to prevent the possibility of its running the blockade; there is no doubt of the eventual release of both ship and cargo, but they appear to laugh at any remonstrance made by our Government.

We learn that the cargo of the steamer "Peterhoff" is to be discharged, notwithstanding the protests; in fact, unless England shows a determination not to submit to these outrages, it is very difficult to say what the Yankees will not do. We would suggest that all influence be brought to bear upon our Government to obtain their intervention and prevent these repeated postponements.

Lord Lyons, we expect, will be here next week; we will see him without fail.

We are, &c.

(Signed) W. P. WORWELL AND Co.

No. 11.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, May* 4, 1863.

HER Majesty's Government have had under their consideration, and they have consulted the Law Officers of the Crown, upon your despatch of the 30th March respecting the case of the "Springbok," and I have to state to you that you appear to have taken all the steps which it was proper for you to take on behalf of the parties interested. The owners of the "Springbok" will, of course, take the necessary steps to establish the innocence of that vessel before the Prize Court, and apply under the advice of their Counsel for costs and damages.

As to the alleged stealing of the seamen's clothes, I presume that this is a matter for which, if the statement be true, redress will not be withheld.

I am, &c.

(Signed) RUSSELL.

No. 12.

*Mr. Hammond to Mr. Begbie.**

Sir, *Foreign Office, May 5*, 1863.

I AM directed by Earl Russell to acknowledge the receipt of your letter of the 28th ultimo, respecting the case of the "Springbok," and I am to state to you that Lord Russell will transmit a copy of your letter to Lord Lyons, and will direct his Lordship, if he should be of opinion that there has been unnecessary delay in bringing the case to trial, to represent the matter to the United States' Government, and urge that the trial may be expedited.

With this exception Lord Russell does not see that the case at present calls for any further instructions from Her Majesty's Government.

The owners of the "Springbok" will, of course, take the necessary steps to establish the innocence of their vessel before the Prize Court, and will apply, under the advice of their Counsel, for costs and damages.

I am, &c.
(Signed) E. HAMMOND.

No. 13.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, May 6*, 1863.

WITH reference to my despatch of the 4th instant respecting the case of the "Springbok," I inclose copies of letters from Mr. Begbie and Messrs. Barter and Co. complaining of the delay of the Prize Court in adjudicating upon that vessel.† I also inclose a copy of a letter which I have caused to be addressed to those gentlemen in reply, and, in conformity therewith, I have to instruct you, if you should be of opinion that there has been unnecessary delay in bringing the case to trial, to represent the matter to the United States' Government, and to urge that the trial may be expedited.

I am, &c.
(Signed) RUSSELL.

No. 14.

Lord Lyons to Earl Russell.—(Received May 17.)

My Lord, *Washington, May 5*, 1863.

WITH reference to your Lordship's despatch of the 26th March last, and to my despatch of the 30th of the same month, I have the honour to inclose copies of a further correspondence which I have had with Mr. Consul Archibald on the case of the "Springbok."

Mr. Archibald reports that the delay in the judicial proceedings in the case has not been unreasonable or excessive. I do not therefore purpose, in the absence of further instructions from your Lordship, to make that delay the subject of a remonstrance to the United States' Government.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 14.

Consul Archibald to Lord Lyons.

My Lord, *New York, February 28*, 1863.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 25th instant, in reference to the capture of the "Springbok." In compliance with your Lordship's instructions I have advised the master of the "Springbok" to incur no risk of prejudicing the defence of his vessel by delaying to adopt the proper

* Also to Messrs. Barter and Co., *mutatis mutandis*.
† Nos. 10 and 12; and Messrs. Barter and Co, April 25 and 30, 1863 (not printed).

measures in such case; but I find there is ample time for entering his claim after he shall have learnt whether or not your Lordship's application on his behalf to the United States' Government shall have been successful.

I regret to say that I am unable to furnish your Lordship with an authenticated copy of the master's affidavit. His deposition was taken down by me and sworn to, barely in time to forward it, in original, by the mail of the day on which it was made; and I omitted to mention that I had not retained a copy of it. I trust a copy may, without inconvenience, be obtained from the State Department.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 2 in No. 14.

Lord Lyons to Consul Archibald.

Sir, *Washington, April* 14, 1863.

WITH reference to my despatch of the 30th ultimo and to the previous correspondence relative to the case of the "Springbok," I transmit to you copies of a letter from Mr. Begbie to Earl Russell, and its inclosure, of a letter from Messrs. Barter and Co. to his Lordship, and of the answer which his Lordship has caused to be made to those letters.

In pursuance of instructions which I have received from Lord Russell I have to direct you to inquire into the justice of the complaints made of delays in the Prize Courts, and to address to me a Report on the subject.

Mr. Begbie states to Lord Russell that it was by the merest chance that the "Springbok" and cargo escaped condemnation by default in appearance. I must observe, however, that in my despatch to you of the 25th February last I desired you to advise the master of the "Springbok" not to run any risk of prejudicing the defence of his vessel before a Prize Court, by neglecting to take proper measures at once: and that in your despatch to me of the 28th February, 1863, you reported that you had done so.

You will carefully watch the proceedings in the case of the "Springbok," and eventually transmit to me, for the information of Earl Russell, full particulars of the course of the trial and its results.

I am, &c.
(Signed) LYONS.

Inclosure 3 in No. 14.

Consul Archibald to Lord Lyons.

My Lord, *New York, April* 27, 1863.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 14th instant, referring to previous correspondence relative to the case of the "Springbok," and transmitting copies of a letter from Mr. Begbie to Earl Russell, with its inclosures, also of a letter from Messrs. Barter and Co. to his Lordship, and of the answer which his Lordship had caused to be made to these letters, and instructing me to inquire into the justice of the complaints made of delays in the Prize Court, and to address a Report thereon to your Lordship. Further instructing me to carefully watch the proceedings in the case of the "Springbok," and eventually transmit to your Lordship, for Earl Russell's information, full particulars of the course of the trial and its results. Your Lordship also calls my attention to the statement of Mr. Begbie to Earl Russell, that it was by the merest chance the "Springbok" and cargo escaped condemnation by default in appearance, with the observation that, in your Lordship's despatch to me of the 25th February last, you desired me to advise the master of the "Springbok" not to run any risk of prejudicing the defence of his vessel before a Prize Court, by neglecting to take proper measures at once, and that in my despatch to your Lordship of the 28th February I reported that I had done so.

I have now the honour to acquaint your Lordship that I have inquired into the justice of the complaints of the delays in the Prize Court, more especially in reference

to the cases of the "Stephen Hart" and "Springbok." As regards the former vessel I find that in this case the libel was filed the 18th February, 1862, monition returnable the 11th March, on which day Mr. Kursheedt, the Counsel of the owners of vessel and cargo, appeared and obtained time to file his claim, which time was subsequently further extended until the 1st May, on which day he filed claims on behalf of John M. Harris to the vessel, and of S. Isaac, Campbell and Co. to the entire cargo. This case was moved for trial on the 1st July, but in consequence of the opposition of the claimant's Counsel, the trial was postponed until the autumn. It is stated to me, on the part of the United States' District Attorney, that after continued exertions by him to bring on the trial during the winter, it was at last submitted to the Court on the 8th instant, with leave to both sides to hand in written briefs within twenty days from the time of trial. The case now remains for the decision of Judge Betts.

The foregoing dates and proceedings have been communicated to me by Mr. Andrews, the Assistant District Attorney, whose statement I submitted to Mr. Kursheedt, the Counsel for the claimants, a copy of whose observations thereon I beg leave to inclose herewith.

In regard to the "Springbok," which vessel arrived here on the 11th February last, the libel was filed on the 12th, monition issued returnable on the 3rd March—on which day Mr. Charles Edwards appeared and obtained a week's time to file claims. On the 10th he filed claims, by master on behalf of owner of vessel, and by myself on behalf of owners of cargo, both brief and formal documents. On the 12th Mr. Kursheedt being instructed to act as Counsel for the owners of cargo, moved, in conjunction with Mr. Edwards, for a hearing. The motion being opposed by the District Attorney, the Judge decided that the latter was not compellable to go to trial without notice. This notice being given a motion for a hearing was again made on the 17th, and successfully resisted by the District Attorney. On the 24th Mr. Kursheedt filed an extended claim for the owners of the cargo. On the 8th April notice of hearing was given by the claimant's Counsel for the 13th instant, on which day the District Attorney objected, on the ground that five days' notice should be given for the first day of term, which is the first Tuesday of each month. The objection was sustained by the Judge, and the hearing now stands over for the first Tuesday of May.

The delay in the case of the "Springbok" has not been unreasonable or excessive, but the real cause of it, I find, is the desire of the District Attorney to obtain the decision of the Court in the case of the "Stephen Hart," in which the principle involved is identical with that of the "Springbok," while the evidence is much stronger than that in the case of the last-mentioned vessel.

In regard to the statement in Mr. Begbie's letter that it was by the merest chance that the "Springbok" and cargo escaped condemnation, by default in appearance, I beg leave to report to your Lordship that the proceedings in this case were more summary and expeditious than usual. The monition was issued on the very day after the ship's arrival, and was made returnable at the earliest period possible, the 3rd March.

The only mode of notifying claimants of monitions issued is by advertisement. The master of the "Springbok" was in my office daily from the time of his arrival here.

Your Lordship's despatch of the 25th February was received by me on the 27th of that month, and on the same day I read it to Captain May, as reported by me to your Lordship. It was not, however, until the 2nd March that the unusually early issue and return of the monition was ascertained, it having been imperfectly advertised, and on that day the master was directed by the Counsel of the Consulate, who appeared on the following day and obtained a week's leave to file claims. I may observe that this indulgence of further time is granted almost as a matter of course; and notwithstanding a default might have been entered, it would have been removed on subsequent application on affidavit, and the claimants admitted to defend the prosecution.

Mr. Begbie's complaint is founded seemingly on an expression in Mr. Charles Edwards' letter of the 3rd March, "That he would try to get the British Consul to intervene for cargo until he could hear from him (Mr. Begbie)." This expression is, to say the least, very inconsiderate, and so far as it may be construed to imply unwillingness on my part to protect the interests of the owners of the vessel and cargo, most unjust. I have called upon Mr. Edwards for an explanation of what he meant by the expression, and beg leave to inclose herewith, for your Lordship's information, a copy of his reply.

The master of the "Springbok," as I have stated to your Lordship, was in almost daily conference with me for the protection of the interests of owners of vessel and cargo. I drew out and forwarded to your Lordship a very full affidavit of facts; and in my advice to, and proceedings on behalf of, the master, as well as in my correspondence

with your Lordship, did all that lay in my power towards procuring the release of the vessel and cargo, without incurring the heavy expense of legal proceedings, until such proceedings shall become absolutely necessary and if time should permit, until the owners could assume the responsibility of selecting their own legal advisers.

I have dwelt thus briefly on this topic, as I cannot, in justice to myself, permit an erroneous impression to be formed that in this, or in any other case, I have displayed an unwillingness to protect the interests of absent owners; or that any advice or service which it may have been in my power to render, although entirely gratuitous, has not been readily and cheerfully rendered to them or their agents.

I have, &c.

(Signed) E. M. ARCHIBALD.

Inclosure 4 in No. 14.

Mr. Kursheedt to Consul Archibald.

Dear Sir, 12, *John Street, New York, April* 27, 1863.

IN reply to yours of the 25th instant, inclosing Mr. Andrews' lines to you of the 22nd instant, would say that the dates he gives are in part correct, and entirely so on his side. On ours it is otherwise, my associates and self deemed it material to obtain some further testimony in the case, and it was written for, reaching him in the month of September. In this month one of the claimants' counsel was called away by a domestic calamity, and in October the Government moved for leave to re-examine one of the witnesses before examined, we opposed this, but the Court ordered the testimony to be taken. The question of its admissability being reserved first till a hearing, and then till the hearing. This further testimony was not opened till the 2nd December. In January and February the counsels were absent, several in Washington attending the argument of the already appealed prize cases in the Supreme Court. These cases involved questions certain to arise in our case, and were only decided on the 9th March, and the opinion only reached about the 1st April.

This explanation seems to me to free all the counsel from any fault in the so-called delay.

Neither party would have acquiesced in the decision of the District Judge while such grave questions remained undetermined in the Court of last resort, when and how would we be heard there? was the question.

The answer to this question is not until the February term 1864. If now heard we are therefore as near that term as we would be if the case had been heard and decided at any time after September last.

Mr. Andrews' letter is returned as requested, and trusting that any misapprehension that may have existed is now removed, believe me, &c.

(Signed) ALEXR. KURSHEEDT.

Inclosure 5 in No. 14.

Mr. C. Edwards to Consul Archibald.

Sir, *New York, April* 24, 1863.

I HAVE the honour to acknowledge a note from you dated the 21st instant, covering a copy of letter which I wrote to my client Mr. Thomas Stirling Begbie, of London, having relation to the "Springbok" held here as prize.

You ask me to explain what I meant by the expression (in such letter) as to my intention to "try to get the British Consul to intervene for cargo until I can hear from you."

While my aforesaid communication somewhat explains itself, I beg to add that Captain May of the "Springbok" came to me for the first time on the day before the monition against vessel and cargo was returnable, and had he let another day go by without employing counsel, there would have been condemnation *pro confesso*. He told me that his case was then, through you, in the hands of my Lord Lyons, but from the fact that the United States' Government had not done anything towards releasing his

vessel, he had asked at your Consulate for the name of some Counsel, and was informed that you were not in the habit of urging the name of any particular advocate, and left individuals to choose their own; but that if the particular desire of an applicant was for the Consul to send him to Counsel, that the name of the standing Counsel for the Consulate, Mr. Edwards (myself), would be given. On this he came to me; and on telling me that Mr. Thomas Sterling Begbie, of London, was interested in the cargo—and who was already my client in another case—I determined to write to Mr. Begbie as I did.

You are aware that from the commencement of seizures as prize, I have advised, and you have approved of, an intervention on your part in cases which, *primâ facie* appeared honest, until individual owners had time to come forward. I had reference to this course of action in my letter to Mr. Begbie, and accordingly made free to prepare an intervening claim in your name on behalf of British owners of the cargo, and sent it down with a casual note leaving it to you (as you had already some knowledge of the case) to sign such instrument. You promptly responded by sending the latter signed; and I put it in at the same time that I interposed a claim for Captain May on behalf of the vessel.

After some time Mr. Begbie was heard from, as well by myself, as by Mr. Kursheedt, a brother member of the bar. I gave the latter to understand that he would have to put in claims in the names of the now known owners, and so relieve your intervening claim.

This was done, and the cause now stands ready for hearing. I would add that I have been industrious in trying to get the vessel tried, but I cannot say that the United States' District Attorney encourages this; in fact, I consider he studiedly tries to delay a final hearing. It might have been disposed of before the Court almost any day within the last fortnight, had there been at all a disposition in that direction on the part of the prosecuting counsel.

You do not, in your note, state why or for what you particularly require my answer, and it may be that even now I have not responded in a right direction, or so fully as to be useful.

Pray command me further if you desire, and consider me yours, &c.

(Signed) CHARLES EDWARDS.

P.S.—I think I did not get your communication until the 22nd, but at any rate I must apologize for not answering earlier—a serious press of professional business has been the cause.

C. E.

Inclosure 6 in No. 14.

Captain May to Consul Archibald.

Dear Sir, *New York, April* 21, 1863.

IN reference to the letter from Mr. Begbie, and the papers in Lord Lyons' despatch about the case of the "Springbok" which you have shown to me, I beg to say that I visited your office every day, and was in consultation with you very often from the time of my arrival here.

We hoped through the affidavit and remonstrance you sent forward to have the vessel released, and were unwilling to incur legal expense, so long as there was a prospect of the Government releasing the vessel.

I remember your reading to me Lord Lyons' despatch about not neglecting or prejudicing my claim by neglecting to take proper measures should it come before a Prize Court, but it came on much sooner than we expected, and it was by a mere chance that I found out, on the 2nd of March, that it was coming on the following day, as it was not advertised before. I then went to Mr. Edwards, and he took the case in hand in time to defend it on the following day. I can only say that you have always readily advised me, and have done everything in your power for the interests of the owners and charterers.

I am, &c.

(Signed) JAMES MAY,

Master of "Springbok."

No. 15.

Mr. Begbie to Earl Russell.—(*Received May* 20.)

My Lord, 4, *Mansion House Place, London, May* 19, 1863.

WITH reference to the discussions in the House of Lords last night* arising out of the Marquess of Clanricarde's motion relating to the United States' Prize Courts, and in view of the law as stated by your Lordship, in confirmation of the Earl of Derby's opinion, which was also confirmed by Lord Cranworth, it is most clearly evident that in the seizure of the "Springbok" on her direct course, prosecuting a legal voyage from the United Kingdom to Nassau, N.P., the United States' cruisers have committed an illegal act.

Your Lordship has hitherto declined to accord me further aid in this matter than may be derived from the British Minister at Washington being requested to watch the proceedings of this case in the American Prize Court, but after such a very clear enunciation of what is the law, I trust that your Lordship will pardon my again urging that such instructions may at once be sent out as will, without delay, insure the trial of the "Springbok's" case, and that the law, as stated by your Lordship, by the Earl of Derby, and by Lord Cranworth, last night, be carried out.

I desire nothing more than that the "Springbok's" case shall be promptly dealt with as the law directs, and I conceive that, as an Englishman, I have a right to demand, most respectfully, that beyond this I shall not be allowed to suffer, as I do at present, from the illegal manner in which I have been deprived of so large an amount of property, which is retained to my great injury and heavy loss.

I have, &c.

(Signed) THOS. STIRLING BEGBIE.

No. 16.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, May* 22, 1863.

I AM directed by Earl Russell to acknowledge the receipt of your letter of the 19th instant, and with reference to your statement that you desire nothing more than that the case of the "Springbok" should be promptly dealt with as the law directs, I am to inform you that, in conformity with my letter of the 5th instant, an instruction was, on the following day, addressed to Lord Lyons respecting the asserted delay in bringing this case to trial.

It appears, however, from a despatch from Lord Lyons which has crossed that instruction, that the proceedings in the case of the "Springbok" have, in some respects, been more summary and expeditious than usual; and that whatever delay has occurred has been owing, not to any want of attention to your interests on the part of Her Majesty's Consul at New York, or the Counsel engaged for the defence, but to the course pursued by the United States' District Attorney. Lord Lyons was not, however, of opinion that that delay had been unreasonable or excessive.

I am, &c.

(Signed) E. HAMMOND.

No. 17.

Lord Lyons to Earl Russell.—(*Received June* 11.)

My Lord, *Washington, May* 29, 1863.

WITH reference to my despatch of the 5th instant, and to your Lordship's despatch of the 6th instant, I have the honour to inclose copies of a further correspondence which I have had with Mr. Consul Archibald relative to the delay in bringing the case of the "Springbok" to a hearing.

Your Lordship will see that the counsel for the owners does not consider it

* See Note to Inclosure 7 in No. 32, p. 54.

advisable that a representation on the subject should be at this time made by me to the United States' Government.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 17.

Consul Archbald to Lord Lyons.

My Lord, *New York, May* 16, 1863.

IN reference to the case of the "Springbok," I have the honour to report to your Lordship that the hearing in this case has not yet taken place, notwithstanding that the counsel for the owners of the vessel and cargo have pressed for it repeatedly during the last fortnight. Mr. Upton, the counsel for the captors, is attending an investigation before a Commissioner appointed to inquire into the question of the costs and charges incurred in prize cases, and, in his absence, the Judge declines to proceed with the hearing.

I have also to report that, a few days since, an order was granted by the Court, at the instance of the counsel for the prosecution, directing the inspection of (as I am informed) some 2,000 packages of the cargo.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 2 in No. 17.

Lord Lyons to Consul Archibald.

Sir, *Washington, May* 20, 1863.

I HAVE received your despatch of the 16th instant, in which you inform me that the hearing in the case of the "Springbok" has not yet taken place, although the counsel for the owners of the vessel and cargo have pressed for it repeatedly during the last fortnight.

In your despatch of the 27th ultimo you reported that the delays which had taken place in the case of the "Springbok" have not been unreasonable or excessive. Do you consider that the delay which has since taken place is so unusual or unreasonable as to justify me in making it a subject of remonstrance to the Executive Government of the United States? If you are of this opinion, and if the counsel for the owners consider that it would be for the interests of their clients that I should address such a remonstrance to the State Department, I am ready to do so.

I am, &c.
(Signed) LYONS.

Inclosure 3 in No. 17.

Lord Lyons to Consul Archibald.

Sir, *Washington, May* 27, 1863.

IN my despatch of the 20th instant, I asked you whether you considered that the delay which had recently taken place in the hearing of the case of the "Springbok" by the Prize Court was so unreasonable or excessive that I should be justified in making it the subject of a remonstrance to the United States' Government, and I added that if you were of that opinion, and if the counsel for the owners considered that it would be for the interest of their clients that I should address such a remonstrance to the United States' Government, I was ready to do so.

Since I wrote that despatch I have received instructions from Her Majesty's Government authorizing me to urge that the trial of the "Springbok" be expedited. I await your answer to my despatch in order to determine what course to take with regard to these instructions.

I have, &c.
(Signed) LYONS.

Inclosure 4 in No. 17.

Consul Archibald to Lord Lyons.

My Lord, *New York, May* 26, 1863.

I HAVE the honour to report to your Lordship that, having communicated to the counsel for the owners of the "Springbok" the readiness of your Lordship to address a remonstrance to the State Department in reference to the delays in the case of that vessel, I have been informed that about three weeks since Mr. Edwards, counsel for the owners, moved and subsequently pressed his application for a hearing, but has been met by the United States' District Attorney assuring the Court that Mr. Upton had been specially retained by the Navy Department, and at the same time had been subpœnaed as a witness before the Commissioner appointed to take testimony in reference to alleged fraudulent practices in prize cases. I was accordingly requested to wait the result of a further motion to be made to-day to press the case to a hearing.

I have now had a further report from Mr. Edwards to the effect that owing to the Court being to-day occupied with a jury trial it has been impossible for him to procure a hearing in the case of the "Springbok." As I understand Mr. Upton will now be at liberty to argue the case on the part of the captors, it is probable that the hearing will shortly take place. In this expectation, the counsel for the owners does not consider it advisable that for the present any representation should be made to the State Department on the subject of the delay of the hearing of this case.

I have the honour likewise to report that the order of the Court for a further minute examination of certain portions of the cargo has been carried into execution, but I am informed that no contraband of war has, in the course of this examination, been discovered.

I have, &c.
(Signed) E. M. ARCHIBALD.

No. 18.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Offiee, June* 13, 1863.

WITH reference to my letter of the 22nd ultimo, I am directed by Earl Russell to state to you that a further despatch has been received from Lord Lyons, from which it appears that his Lordship had informed Mr. Consul Archibald that he was ready to urge the United States' Government to expedite the trial of the "Springbok," if Mr. Archibald was of opinion that the delay had been unreasonable or excessive, and the counsel for the owners considered that it would be for the interest of his clients that Lord Lyons should do so; and that he had been informed by Mr. Archibald, in reply, that the counsel did not consider it advisable that, for the present, any such representation should be made to the United States' Government.

I am, &c.
(Signed) E. HAMMOND.

No. 19.

Mr. Begbie to Earl Russell.—(*Received August* 21.)

My Lord, 4, *Mansion House Place, London, August* 20, 1863.

I HAVE from New York advises from my agent there of the condemnation, by Judge Betts, of the barque "Springbok" and cargo. I annex a cutting from the New York papers showing the purport of this condemnation.

I have the honour to send to your Lordship a printed statement of this case, showing the "libel" or captor's statement of the case, from which it appears that the captors did not even allege that "Springbok" was bound for any other port than Nassau, N.P.; none of the evidence went to prove that such was the case, nor, in fact, was it so. The vessel and cargo were actually and *bonâ fide* bound solely for Nassau, and there the cargo would have been discharged and "Springbok" dismissed, her

charter being at an end; and this no evidence disproved. The statements by the Judge that the true destination was not Nassau, but some blockaded port, and that the ship's papers were simulated and false, are untrue and against the evidence adduced at the trial.

The condemnation, therefore, of the barque "Springbok" and cargo is, I respectfully submit to your Lordship, a gross violation of the law of nations, and a grievous wrong inflicted on the owner and myself and others interested in the cargo; and I most respectfully request that as your Lordship has on a former occasion informed me that Her Majesty's Government would take up this case, that the vessel and cargo be restored, with damages, if it is ascertained that my statements above made prove correct.

I have, &c.
(Signed) THOS. STIRLING BEGBIE.

Inclosure 1 in No. 19.

Newspaper Extract.

The United States *v.* the Barque "Springbok" and Cargo.

BETTS, D.J.—This suit having been heard by the Court upon the pleadings, proofs, and allegations of the parties, and evidence legally invoked therein from other cases, and the premises being fully considered, and it being found by the Court therefrom that the said vessel, at the time of her capture at sea, was knowingly laden in whole or in part with articles contraband of war, with intent to deliver such articles to the aid and use of the enemy; that the true destination of the said ship and cargo was not to Nassau, a neutral port, and for trade and commerce, but to some port lawfully blockaded by the forces of the United States, and with intent to violate such blockade.

And further, that the papers of said vessel were simulated and false.

Wherefore, the condemnation and forfeiture of the vessel and cargo is declared.

Ordered that a decree be entered accordingly.

Inclosure 2 in No. 19.

Statement on behalf of the Claimants, or owners of Cargo, before the Supreme Court, United States.

[Not printed.]

No. 20.

Lord Lyons to Earl Russell.—(Received August 28.)

My Lord, *Washington, August* 14, 1863.

YOUR Lordship will have observed that in the despatch, dated the 10th instant, a copy of which is inclosed in my immediately preceding despatch of this day, Mr. Consul Archibald informs me that my interposition with the United States is requested in order to delay the sale of the "Springbok" as well as that of the "Peterhof." I have thought it on the whole well to communicate to Mr. Seward the request in the case of the "Springbok" also, and I have accordingly addressed to him the note, of which a copy is transmitted herewith to your Lordship. I have also the honour to transmit to your Lordship a copy of a despatch which I have written to Mr. Archibald on the subject.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 20.

Lord Lyons to Mr. Seward.

Sir, *Washington, August* 12, 1863.

HER Majesty's Consul at New York having represented to me that he has been requested by the parties at that place interested in the prize vessel "Springbok" to solicit my interposition with the United States' Government with a view to obtain a delay in the sale of that vessel and its cargo until appeal can be had to the Supreme Court, I have the honour to ask you to take the subject into consideration.

I have, &c.
(Signed) LYONS.

Inclosure 2 in No. 20.

Lord Lyons to Consul Archibald.

Sir, *Washington, August* 12, 1863.

WITH reference to your despatch of the day before yesterday representing to me that my interposition with the United States' Government is requested with a view to obtain a delay in the sale of the "Springbok" and its cargo, I have to state to you that I have asked the Secretary of State of the United States to take the subject into consideration.

I am, &c.
(Signed) LYONS.

No. 21.

Mr. Hammond to Mr. Begbie.

Sir, *Foreign Office, September* 19, 1863.

WITH reference to your letter of the 20th ultimo, I am directed by Earl Russell to state to you that, having considered the matter in communication with the Law Officers of the Crown, Her Majesty's Government are advised that the circumstances attending the condemnation of the "Springbok" do not afford any ground for official interference, or for not awaiting the result of the appeal, which is the usual and proper course in obtaining a reversal of a sentence alleged to be erroneous.

I am, &c.
(Signed) E. HAMMOND.

No. 22.

Earl Russell to Mr. Stuart.

Sir, *Foreign Office, September* 21, 1863.

I INCLOSE, for your information, a copy of a letter which I have caused to be addressed to Mr. Begbie and to Messrs. Barter and Co. in answer to further letters applying for the interference of Her Majesty's Government with the United States' Government in the case of the "Springbok."

As, however, Her Majesty's Government have before them only the bare Decree and neither the evidence nor the Judgment giving the reasons of the Court in full, Her Majesty's Government have not been able to form any opinion as to the propriety and justice of the sentence.

You will instruct the Acting Consul at New York to supply all the information obtainable in this case, including a statement of the opinions of the counsel for the owners as to its merits.

With reference to the sale of the vessel, you will ask Mr. Seward whether, in case the sentence should be reversed on appeal, the Court will give the vessel back or pay to the owners its value.

I am, &c.
(Signed) RUSSELL.

No. 23.

Lord Lyons to Earl Russell.—(Received October 29.)

My Lord, *Washington, October 16, 1863.*

WITH reference to your Lordship's despatch to Mr. Stuart of the 21st ultimo, I have the honour to transmit to you a copy of a despatch from Mr. Stuart to Mr. Consul Archibald calling for further information respecting the case of the "Springbok," and a copy of Mr. Archibald's answer.

I have also the honour to transmit to your Lordship a copy of a note, in which, in obedience to the orders contained in your Lordship's despatch, I have asked Mr. Seward whether, in case the Decree condemning the "Springbok" should be reversed on appeal, the Court will give the vessel back or pay to the owners its value.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 23.

Mr. Stuart to Consul Archibald.

Sir, *Washington, October 8, 1863.*

I HAVE received a despatch from Earl Russell directing me to instruct you to supply all the information which you can obtain respecting the proceedings in the Prize Court in the case of the "Springbok," including a statement of the opinion of the counsel for the owners as to the merits of the case.

Her Majesty's Government have already had before them the bare Decree, but neither the evidence nor the Judgment giving the reasons of the Court in full, and they have not therefore been able to form any opinion as to the propriety and justice of the sentence.

I have consequently to request that you will furnish me with the desired information at your earliest convenience.

I am, &c.
(Signed) W. STUART.

Inclosure 2 in No. 23.

Consul Archibald to Mr. Stuart.

Sir, *New York, October 10, 1863.*

I HAVE the honour to acknowledge the receipt of your despatch of the 8th instant, instructing me to supply, at my earliest convenience, all the information I can obtain respecting the proceedings in the Prize Court in the case of the "Springbok," including a statement of the opinion of the counsel for the owners as to the merits of the case.

Her Majesty's Government having had before them the bare Decree, but neither the evidence nor the Judgment giving the reasons of the Court in full, and are consequently unable to form any opinion as to the propriety and justice of the sentence.

In reply, I have the honour to inform you that Judge Betts has never yet pronounced his Judgment in full, but on inquiring of the clerk of the Court to-day, I am informed that he is now preparing it and will promulgate it in the course of a week or ten days, when I shall be able to obtain a copy. Meantime, I have ordered a copy of the

evidence to be prepared as speedily as possible, and have requested the counsel for the owners to furnish me with a statement of his opinion of the merits of the case.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 3 in No. 23.

Lord Lyons to Mr. Seward.

Sir, *Washington, October* 15, 1863.

IN a note, dated the 12th August last, I recommended to your consideration a request from the parties interested in the prize vessel "Springbok" that the sale of that vessel and her cargo might be delayed until an appeal against the sentence of condemnation should be carried to the Supreme Court of the United States. The Acting Secretary of State did me the honour to inform me, in reply, by a note, dated the 19th of the same month, that the Secretary of the Navy represented that the subject was in the hands of the Judiciary.

The "Springbok" was, it appears, sold by public auction at New York on the 17th August, and with reference to this sale I am directed by Her Majesty's Principal Secretary of State for Foreign Affairs to ask you whether, in case the sentence should be reversed on appeal, the Court will give the vessel back or pay to the owners its value.

I have, &c.
(Signed) LYONS.

No. 24.

Lord Lyons to Earl Russell.—(Received November 1.)

My Lord, *Washington, October* 20, 1863.

I HAVE the honour to inclose a copy of a note which I received yesterday from Mr. Seward, in answer to the note dated the 15th instant, of which copy was inclosed in my despatch of the 16th instant, and in which I enquired, in obedience to your Lordship's instructions, whether, if the sentence against the "Springbok" should be reversed on appeal, the Court would give the vessel back or pay to the owners its value.

I have, &c.
(Signed) LYONS.

Inclosure in No. 24.

Mr. Seward to Lord Lyons.

My Lord, *Department of State, Washington, October* 16, 1863.

I HAVE the honour to acknowledge the receipt of your note of yesterday, asking whether in the event that the Decree of the Inferior Court in the case of the "Springbok" should be reversed on appeal, the Court will give the vessel back, or pay to the owners its value.

In reply, I have the honour to acquaint you that, in the event of a reversal of the judgment of the Inferior Court, the Supreme Court may be expected to decree a restitution of the vessel, or indemnity according to the circumstances of the case. What the Decree will be cannot now be foreseen by the Executive Department. Whatever it may be, it will be scrupulously carried into effect.

I have, &c.
(Signed) WILLIAM H. SEWARD.

No. 25.

Lord Lyons to Earl Russell.—(Received November 11.)

My Lord, *Washington, October 26, 1863.*

WITH reference to your Lordship's despatch of the 21st ultimo and to my despatches of the 16th instant and of the 20th instant, I have the honour to transmit to your Lordship the following papers relative to the case of the "Springbok."

1. Despatch from Mr. Acting Consul Pierrepont Edwards to me, dated the 22nd October, 1863.
2. Certified copy of evidence.
3. Copy of letter from Mr. Charles Edwards to Mr. Consul Archibald, dated the 19th October, 1863.
4. Opinion of owners' counsel.
5. Printed report of case.

I have, &c.
(Signed) LYONS.

Inclosure 1 in No. 25.

Acting Consul Edwards to Lord Lyons.

My Lord, *New York, October 22, 1863.*

IN reference to Mr. Stuart's despatch of the 8th and to Mr. Consul Archibald's despatch of the 10th instant, I have the honour to transmit, herewith inclosed, a certified copy of the evidence in the case of the "Springbok" as well as a copy of a letter from the counsel of the owners with his written opinion.

I inclose at the same time a printed report containing the particulars of the case.

I have not thought well longer to delay the transmission of these documents as I have good reason to believe that the Judge's grounds for condemnation which have been asked for by your Lordship, will not be promulgated for some time; probably not until about the time of appeal of the case to the Supreme Court, which can scarcely take place until the month of February next.

Your Lordship has not ordered these papers in duplicate, and I therefore do not so send them, indeed in the case of the printed report it would now be almost impossible to procure a second copy.

I have, &c.
(Signed) P. EDWARDS.

[Other Inclosures not printed.]

No. 26.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, December 29, 1863.*

YOUR despatch of the 26th October, and its inclosures, respecting the case of the "Springbok," has been considered by Her Majesty's Government, in communication with the Law Advisers of the Crown.

The continued absence of any Judgment, with the reasons given by the Judge who condemned the "Springbok," is very much to be regretted, and this long delay in a case of so much importance (the Decree being executed, and the ship and cargo sold under it, while the reasons for the conclusion of the Court are still unknown), is such a grievance, and inflicts so much practical injury upon the owners, that I have to instruct your Lordship to address a representation on the subject to the United States' Government.

In the meanwhile, forming their opinion upon the evidence before them, Her Majesty's Government are at a loss to find sufficient legal justification for the sentence

of condemnation, especially as it does not appear that any opportunity of further proof was offered to the claimants on any points as to which the Judge may have thought the papers and the evidence equivocal or unsatisfactory, or the information afforded by them imperfect.

The following facts appear to be uncontroverted, namely, that the "Springbok" was seized on the high seas, 200 miles from Nassau, in the direct and proper course for that place, and taken 900 miles to be adjudicated upon at New York, and that all her papers on board were regular, the absence of the invoice being immaterial. They were all consistent with what was sworn to by all the witnesses at the preliminary examination, namely, that it was intended to discharge and deliver the cargo at Nassau, and the charter-party, as Her Majesty's Government collect, was for the delivery of the cargo to the consignees at Nassau on payment of freight there. It does, indeed, appear by the shipping articles that the crew were engaged for a voyage out and home of about twelve months, which was to extend, after the arrival of the "Springbok" at Nassau, "if required," to any other port, among others, of the "American States," and the control over that contingent destination seems to have been given to the same persons at Nassau who were the consignees of the cargo. But the most that can be said of this is that the shipping articles and other papers might be consistent with an intention on the part of the charterers that after arriving at Nassau the ship might be ordered by the consignees to proceed with her cargo to a blockaded port. They do not, however, prove any such intention, and according to all principle and precedent, if the case had been decided upon the papers and the depositions alone, the vessel and cargo must have been released, and probably with costs and damages.

It is said that certain portions of the cargo were contraband, and Her Majesty's Government are disposed to think that there were sufficient grounds for holding them to be so, apart from the consideration of their destination to a neutral port. But the nature of the cargo afforded no evidence that the destination of this, or of any other part of the cargo, was not to the neutral port of Nassau. There was no evidence of an intention either to tranship any part of the cargo at Nassau for a blockaded port, or to make a continuous voyage from London to a Confederate port, touching at Nassau on the way, and Her Majesty's Government, as at present advised, are wholly unable to conceive upon what ground the papers were pronounced to be false and simulated. To assume that goods, even of a nature exclusively serviceable for the army and navy of the Confederate States, and avowedly designed for the supply of that market, might not have a real and *bonâ fide* destination to Nassau would be to contradict the notorious fact that a large and profitable trade is actively carried on there with the Confederate States.

Her Majesty's Government are therefore disposed to think that the sentence was wrong, and ought to be reversed, but they would nevertheless be glad to see the reasons upon which it was founded, and they would hesitate to instruct your Lordship to interfere in the case until it had been heard before the Court of Appeal.

I am, &c.
(Signed) RUSSELL.

No. 27.

Consul Archibald to Earl Russell.—(Received February 3.)

My Lord, *New York, January* 22, 1864.

REFERRING to my despatches of the 3rd August last, respectively reporting the condemnation by the Prize Court of this district of the barque "Springbok" and cargo, and of the "Stephen Hart" and cargo, I have the honour to transmit herewith inclosed copies of two despatches to Lord Lyons, forwarding printed copies of the opinion, in full, of Judge Betts in pronouncing the opinion of the Court in the above-mentioned cases.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 1 in No. 27.

Consul Archibald to Lord Lyons.

My Lord, *New York, January* 21, 1864.

I HAVE the honour to acknowledge the receipt of your Lordship's despatch of the 19th instant, inquiring whether the grounds on which the Judge condemned the "Springbok" have yet been promulgated.

In reply, I have the honour to inform your Lordship that Judge Betts' opinion was prepared for the purpose of being printed some time since, and I was promised copies of it so soon as it should be printed. I am informed that the copies have only within a few days past been received from the printers, and that the grounds of Judge Betts' decision may now be considered as promulgated.

I have obtained six copies of the Judgment, of which I send, herewith inclosed, two, for the use of your Lordship, and will, by the steamer of Saturday next, transmit four copies to the Foreign Office.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 2 in No. 27.

Consul Archibald to Lord Lyons.

My Lord, *New York, January* 22, 1864.

REFERRING to my despatch of the 3rd August last, reporting the condemnation of the schooner "Stephen Hart" and cargo by the Prize Court of this district, I now have the honour to transmit herewith inclosed, for your Lordship's information, two printed copies of the opinion in full, of Judge Betts in pronouncing the Judgment of the Court.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure 3 in No. 27.

DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

The United States v. *the Barque "Springbok" and her Cargo.—In Prize.*

Opinion of the Court.

BETTS, J. On the 3rd February, 1863, in latitude 25° 35′ north, and longitude 73° 40′ west, the United States' steamer "Sonoma" captured, as lawful prize of war, the barque "Springbok." The place of capture was from 150 to 200 miles east of the port of Nassau, N.P. A libel was filed against the "Springbok" and her cargo on the 12th February, 1863. The libel alleges that the barque, when captured, was "making for the harbour of Nassau."

On the 26th February, 1863, the Court made an order that the cargo of the barque be unladen by the Marshal, under the superintendence of the Prize Commissioners, and be stored in some suitable warehouse, and that an inventory of the cargo be made by the Marshal. The reason for making this order was that the cargo was being damaged by reason of the leaky condition of the deck of the vessel. The Report of the Prize Commissioners as to the discharge of the cargo under this order, was filed on the 9th April, 1863, and was accompanied by a list of the packages and cases composing the cargo, and of their marks and numbers; but the packages were not opened. So far as this Report shows, the cargo consisted of 4 cases of samples, 3 cases and 4 hogsheads

of merchandise, 10 kegs of saltpetre, 15 barrels of mustard, 17 barrels of Epsom salts, 18 bags of pimento, 10 bags of cloves, 60 bags of pepper, 4 cases of root ginger, 2 cases of nutmegs, 220 bags of coffee, 150 chests and 150 half chests of tea, 2 cases of drugs, 1 coil of rope, 4 barrels of pork, 3 water casks, ½ of a barrel of pitch, 86 bales of dry goods, 641 cases of dry goods, and a quantity of tin plate in boxes, said to be 606 boxes. One of the cases of samples was marked, "B. W. Hart, Esq., Nassau." Eighteen of the cases of dry goods were reported as marked, "A (in a diamond) S. I. C. & Co."

On the 10th March, 1863, a claim to the barque was filed on behalf of Thomas May and John E. Oxenberry, both of Falmouth, England, and of the personal representatives of Richard May, deceased, as owners of the barque. The claim set up, that the vessel was a British vessel, that her owners were British subjects, and that, at the time of her capture she was bound from London to Nassau, N. P., and was to have landed her cargo at Nassau, and that there, as to such cargo, her voyage would have fully ended. This claim on behalf of the owners of the vessel was made by James May, the master of the vessel, and the test oath to the claim was made by the master. In that oath he represents himself as the son and agent of Thomas May.

A claim to the cargo of the barque was filed on the 10th March, 1863, by Mr. Archibald, the British Consul at New York, who intervened for the interest of its owner, and set up that the cargo belonged to British subjects, but did not disclose the name of any owner, and alleged that the vessel was, when taken, on a legitimate voyage from one British port to another. The test oath to this claim was made by Mr. Archibald.

On the 24th March, 1863, a claim to the whole of the cargo was filed on behalf of Samuel Isaac and Saul Isaac, composing the firm of S. Isaac, Campbell and Co., of London, England, and Thomas Sterling Begbie, of London. This claim set forth that the claimants were British subjects, and owners of the whole of the cargo of the barque; that she was a British vessel; that the cargo was put on board at London, consigned direct to Nassau, N. P., another British port, where the whole of it was to have been landed, and the voyage, as to the same, was to have ended; that the whole was consigned to Benjamin W. Hart, their agent and consignee, at Nassau; and that the capture was unlawful, for the reason that the vessel and her cargo were, both of them, on a lawful voyage, under the British flag, between England and Nassau. This claim on behalf of the owners of the cargo was made by Mr. Kursheedt, their proctor, as their agent. He also made the test oath to the claim. This test oath sets forth, among other things, that the cargo of the barque was to be "landed permanently" at Nassau, and that "it was not intended that the said barque should enter, or attempt to enter, *any port of the United States*, or that her cargo should be delivered at *any such port*, but that the true and only destination of such cargo was Nassau aforesaid, where the said cargo was to be actually disposed of, and the proceeds remitted to said claimants;" that the "cargo was not shipped in pursuance of any understanding or agreement, either directly or indirectly, with any of the enemies of the United States, or with any person or persons in behalf of, or connected with, the so-called Confederate States of America, but was shipped with the full, fair and honest intent to sell and dispose of the same absolutely in the market of Nassau aforesaid." All the averments in this test oath are stated in it to be made by Mr. Kursheedt on information and belief; and in it he states, that it is impossible to communicate with the claimants in time to allow them to make the claim and test affidavit, and that his information is derived from letters and communications very lately received by him from them, and from documents in his possession, placed there by the claimants.

There were found on board of the barque at the time of her capture a log-book, two cargo books, her register, her shipping articles, five bills of lading, a manifest of the cargo, a copy of a charter-party, a letter from Spyer and Haywood, as agents of the charterer to Captain May, a letter from Spyer and Haywood, as agents of S. Isaac, Campbell and Co., to B. W. Hart, Esq., Nassau; and sundry other papers, such as a receipt for light duties, a certificate of the shipment of the crew, a clearance, some shipping bills, and a victualling bill.

The log-book, the bills of lading, the manifest, the clearance, and all the other official papers of the vessel speak of her voyage as one from London to Nassau. The date of her clearance from London was the 8th December, 1862.

The register of the barque describes her as a British built vessel registered at Falmouth on the 14th March, 1860, and of the burthen of 188·17 tons. The certificate of registry states that, at its date Thomas May was sole owner of the vessel; and there is an endorsement upon it showing that on the next day, namely, the 15th March, 1860,

1860, Thomas May, Richard May, and John E. Oxenberry became the registered owners.

It appears by certificate that Richard May was master of the vessel at its date, and, by endorsements on the certificate that on the 17th of May, 1862, Thomas May was appointed master; that on the 19th May, 1862, one Percival was appointed master; and that on the 25th November, 1862, James May was appointed master.

The charter-party is dated at London the 12th November, 1862. The charter is "from W. Barter, and Co., by authority of T. May," to Thomas Sterling Begbie, of London, for a voyage to Nassau with a cargo of "lawful merchandize goods," the freight to be paid, one-half in advance, on clearance, and the remainder in cash, on delivery; thirty running days to be allowed the freighter for loading at the port of loading, and discharging at Nassau.

There is an endorsement on the charter-party dated "London, the 8th December, 1862," and signed "Spyer and Haywood," as follows:—

"Sixteen days have been expended in this port in loading and dispatching the vessel, this day included."

One of the letters found on board is signed "Spyer and Haywood, agents for the charterer," and is dated "London, the 8th December, 1862," and is addressed "Captain James May, barque 'Springbok.'" It says:—

"Your vessel being now loaded, you will proceed at once to the Port of Nassau, N.P., and on arrival report yourself to Mr. B. W. Hart there, who will give you orders as to the delivery of your cargo, and any further information you may require."

The other letter is signed "Spyer and Haywood, agents for Messrs. S. Isaac, Campbell and Co.," and is dated "London, the 8th December, 1862," and is addressed "B. W. Hart, Esq., Nassau." It says:—

"Under instructions from Messrs. S. Isaac, Campbell and Co., of Jermyn Street, we inclose you bills of lading for goods shipped per "Springbok," consigned to you."

The shipping articles are for "a voyage from London to Nassau, N.P., thence, if required, to any other port of the West India Islands, American States, British North America, East Coast of South America, and back to the final port of discharge of cargo in the United Kingdom or continent of Europe, between the Elbe and Brest, and finally to a port in the United Kingdom; voyage probably under twelve months."

The five bills of lading found on board were severally marked by the Prize Commissioners Nos. 2, 3, 4, 5, and 6, and are known by those numbers in the proceedings in the cause. Nos. 2, 3, and 4 are each of them marked "Captain's copy," and are not signed by the master. Nos 5 and 6 are each of them signed by the master. No. 2 is a duplicate of No. 6, and No, 4 is a duplicate of No. 5. There is no duplicate of No. 3.

It is supposed that Nos. 5 and 6 were those inclosed in the letter from Spyer and Haywood to Hart, as they are, each of them, signed by the master, and each has upon it a revenue stamp, while Nos. 2, 3, and 4 are wanting in said stamps, for the reason probably that they are merely copies retained by the master.

In Nos. 2 and 6 the shippers are "Moses, Brothers," and both of those bills of lading are endorsed "Moses, Brothers," in blank. The shipment by bill No. 6 is "666 packages of merchandize, being marked and numbered as in the margin," to be delivered at Nassau, N.P., "unto order;" freight to be paid "as per charter-party."

The margin of this bill specifies 150 chests and 150 half chests of tea, 220 bags of coffee, 4 cases of ginger, 19 bags of pimento, 10 bags of cloves, and 60 bags of pepper. This enumeration covers 613 of the 666 packages. The remainder of the packages, 53 in number, are specified in the margin of the bill simply as 7 cases 10 kegs, and 36 casks. The marks and numbers on all the packages are stated in the margin of the bill. The contents of bill No. 2 are the same in all respects as those of No. 6.

Bill No. 3 is a "Captain's copy," of which there was no original found on board. It is for two packages of merchandize, specified in the margin, one as "A (in a diamond), 264, 1 bale," and the other as "1266, 1 case," shipped by "Spyer and Haywood." In all other particulars this bill is like Nos. 2 and 6. It is not indorsed.

Bill No 4 is a duplicate of No. 5, No. 5 being signed by the master, and No. 4 being marked "Captain's copy." The shippers are stated to be "Spyer and Haywood, as agents," and the shipment to be "1,339 packages merchandize, as per endorsement." In the endorsement, there is no specification of the contents of any

of the packages, but they are merely stated to be 648 cases, 84 bales, 606 boxes, and 1 trunk.

The marks and numbers on the various packages are given on the back of the bill. Only one of them has any address other than its mark and number, and that one is the trunk, which is marked "B. W. Hart." No. 5 is endorsed in blank by Spyer and Haywood. No. 4 is not endorsed. In all other respects Nos. 4 and 5 are like the other bills.

The manifest contains a list of the 2,007 packages covered by the bills of lading, and gives them the same marks and numbers as the bills of lading do, but does not describe them any further than by stating them as so many cases, bales, boxes, chests, half chests, bags, kegs, and casks. It states Spyer and Haywood to be shippers of the 1,341 packages, and Moses, Brothers to be shippers of the 666 packages, and that the entire 2,007 packages are consigned to "order." This manifest is dated "London, 8th December, 1862," and is signed "Spyer and Haywood, brokers."

The log-book speaks of the voyage on which the vessel was when she was captured, as one from London to Nassau. It shows that the crew came on board on the 8th December, 1862; that the pilot came on board the next day; that then the vessel was towed down the river from London as far as Erith; and that on 10th December, she was towed to Gravesend, and thence made sail, the pilot leaving her on the 12th. The sea log commences at noon of the 13th. On the 15th, the vessel put into Falmouth on account of heavy weather, where she remained until the 23rd, when she proceeded on her voyage. The last entry in her log is at noon on the 1st February, 1863, in latitude 24° 18′ north and longitude 69° 04′ west.

The cargo books give the numbers and marks of each package composing the cargo, with the length, breadth, depth and solid contents of each, but the packages are simply mentioned as cases, bales, bags, casks and half-barrels, without a designation of the contents, except in the instances of the 606 boxes of tin, the 220 bags of coffee, the 4 cases of ginger, the 10 bags of cloves, the 150 chests and 150 half chests of tea, the 60 bags of pepper, and the 3 cases of samples.

There were no invoices of any part of the cargo found on board of the barque.

On the 12th May, 1863, the Court made an order, on the application of the District Attorney, that the Marshal cause the packages mentioned in the bills of lading marked Nos. 3 and 4, found on board of the vessel, to be opened and examined in the presence of the counsel of the respective parties; and that the Marshal take an inventory of the contents of the packages, in the presence of the parties, and make a report thereof to the Court, showing the character and quanitity of the contents of the packages. This order was made, upon its being shown to the Court that, on the unlading of the cargo by the Marshal, three cases had been discovered containing brass army and navy buttons, some of which were stamped "C. S. N.," and others "A.," "I.," and "C." respectively, and all of which purported, by the stamp on the inside, to be manufactured by S. Isaac, Campbell and Co., of London, and also 1 case of swords, 1 case of sword bayonets, 10 kegs of saltpetre and 606 boxes of tin.

On the 27th May, 1863, the Marshal's report of the examination of the packages mentioned in the bills of lading marked Nos. 3 and 4, was filed, accompanied by an inventory of their contents. The articles enumerated in that report which deserve especial mention, are the following: 20 bales of "army blankets, butternut colour;" 1 case of assorted needles, "manufactured by Isaac, Campbell and Co., London;" 1 case containing "about 320 gross navy buttons," and in regard to which the report says: "These buttons are of the sizes used in the United States' navy." They are made of brass, and are marked on the under side "Isaac, Campbell and Co., 71 Jermyn Street, London." On the upper side they are stamped "C. S. N.," with the impress of a foul anchor and two cannon;" 2 cases containing "about 616 gross army buttons," in regard to which the report says: "These buttons are of the kind used in the United States' army. They are made of brass, marked on the under side "Isaac, Campbell and Co., 71, Jermyn Street, London." On the upper side, some are stamped "I.," others "C.," and others "A.;" 7 bales of "army cloth," in regard to which the report says: This cloth is of the description used in the United States' army, and is of red, yellow, dark blue, light blue, dark green, light green, and other colours;" 1 case, containing "1 dozen cavalry swords and 1 dozen cavalry bayonets, manufactured by Isaac, Campbell and Co.;" 14 cases of "army brogans;" 1 case of "water-proof navy boots;" and 606 boxes of tin plate.

The rest of the cargo covered by the bills of lading Nos. 3 and 4, was reported to consist of envelopes, lead pencils, felt hats, woollen undershirts, men's white shirts,

linen and spool thread, linen collars, woollen gloves, Congress gaiters, dry goods, scarfs, neckties, hair brushes, men's drawers and wrapping paper.

In announcing my decision in this case, just before the summer recess, I stated that the opinion of the Court in full would be drawn up at a later day. In preparing that opinion, I find that, in a report of the appraisement of the whole of the cargo, made by the Prize Commissioners, and filed on the 14th October, 1863, the fifty-three packages covered by the bills of lading Nos. 2 and 6 (the contents of which are not mentioned in those bills of lading, nor in the report on the contents of the packages covered by the bills of lading Nos. 3 and 4), consisted of the following articles: 2 cases of oil of peppermint, 10 kegs of saltpetre, 15 casks of mustard, 17 casks of Epsom salts, 2 cases of calomel, 4 casks of carbonate of ammonia, 1 case of gum opium, and 2 cases of nutmegs. The marks and numbers on these fifty-three packages, as given in the report filed the 14th October, 1863, identify them with fifty-three of the packages specified in the Marshal's report, filed the 9th April, 1863, the oil of peppermint being specified in the latter report as drugs, and the calomel, carbonate of ammonia and gum opium simply as merchandize. The nett weight of the saltpetre is stated in the report filed the 14th October, 1863, to be 1,080 lb., and that of the coil of rope to be 554 lb.

It appears, by that report, that what are called in the report of the Marshal, filed the 27th May, 1863, 20 bales of "army blankets, butternut colour," consisted of 540 pairs of "gray army blankets," and 24 pairs of "white blankets;" that there were 360 gross of brass navy buttons, marked "C. S. N.," 10 gross of army buttons, marked "A.," 397 gross of army buttons, marked "I.," and 148 gross of army buttons, marked "C.," being, in all, 555 gross; and that there were 8 cavalry sabres, 11 sword bayonets, 992 pairs of army boots, 97 pairs of russet brogans, and 47 pairs of cavalry boots. The entire appraisement of the cargo by the Prize Commissioners amounted to 184,141 dol. 99 c., and they appraised the vessel at 7,500 dollars.

The depositions *in preparatorio* of James May, the master, Alexander C. T. L. Hertel, the mate, Patrick Kerns, the boatswain, and Henry Millichamp, the cook and steward, were taken on the 14th February, 1863.

Upon the hearing of the cause, the counsel for the libellants and captors invoked into this case the proofs taken in the cases of the "Stephen Hart" and the "Gertrude," which were on the docket of this Court for trial at the same time with the present case. This invocation was made under the 33rd standing rule of this Court, in prize cases, which provides, that "when the same claimants intervene for different vessels or for goods, wares or merchandise captured on board different vessels, and proofs are taken in the respective causes, and the causes are on the docket for trial at the same time, the captors may, on the hearing in Court, invoke, of course, in either of such causes, the proofs taken in any other of them, the claimants, after such invocation, having liberty to avail themselves also of the proofs in the cause invoked." The Court permitted these invocations to be made.

In the cases of the "George" (1 Wheaton, 408), and the "Experiment" (8 Wheaton, 261), the propriety of the practice of invoking testimony from the papers of other vessels in possession of the Court, is recognised; and in the case of the "Vriendschap" (4 Ch. Rob. 166), Sir William Scott permitted the captor to invoke the deposition of the claimant, made in a former case, in which he was owner and master, upon the principle that it was proper to use the deposition, not as decisive of the case then before the Court, but as evidence not improper to be taken in conjunction with that which the case afforded.

The "Stephen Hart" was a schooner, captured on the 29th January, 1862, between the southern coast of Florida and the Island of Cuba. The claimants of the whole of her cargo were Saul Isaac and Samuel Isaac, composing the firm of S. Isaac, Campbell and Co., the same persons who claim to be the owners, jointly with Begbie, of the whole of the cargo of the "Springbok." It also appeared, in the case of the "Stephen Hart," that the brokers who had charge of the lading of her cargo were Spyer and Haywood, the same parties who appear as brokers of the cargo in the present case and as shippers of a part of it, and as agents for Begbie and for S. Isaac, Campbell and Co., it appeared in the case of the "Stephen Hart," that S. Isaac, Campbell and Co. were dealers in military goods, and that the entire cargo of that vessel, consisting of arms, munitions of war and military equipments, was laden on board of her in England, under the direction of S. Isaac, Campbell and Co., in co-operation with the agents, at London, of the "Confederate States," with the design that the cargo should run the blockade into a port of the enemy, either in the "Stephen Hart," or in a vessel into which the cargo should be transhipped at some place in Cuba, and that S. Isaac, Campbell and Co. intrusted to the

agent of the "Confederate States" in Cuba, the determination of the question as to the mode in which the cargo should be transported into the enemy's port. The cargo of the "Stephen Hart" was condemned by this Court, as lawful prize, on the ground that, being contraband of war, it was sent from England, with an ostensible destination to Cuba, but with a real destination to the enemy's country, by S. Isaac, Campbell and Co.

The "Gertrude" was a steamer, captured on the 16th April, 1863, in the Atlantic Ocean, off one of the Bahama Islands, while she was on an ostensible voyage from Nassau, N. P., to St. John's, N. B. The libel was filed against her in this Court on the 23rd April, 1863, and she was condemned, with her cargo, as lawful prize, on the 21st July, 1863. No claim was put in to either the "Gertrude" or her cargo. It appeared that she cleared from Greenock on the 22nd January, 1863, for Nassau and Havana. She was registered at the Custom-house in London, her certificate of registry being dated the 10th January, 1863, in the name of Thomas Sterling Begbie, as her sole owner, and she is stated in such certificate to have been built at Glasgow on the 6th January, 1863.

The testimony in the case of the "Gertrude" showed that she belonged to Thomas Sterling Begbie, of London; that her cargo consisted, among other things, of hops, dry goods, drugs, leather, cotton cards, paper, 3,960 pairs of gray army blankets, 335 pairs of white blankets, linen, woollen shirts, flannel, 750 pairs of army brogans, Congress gaiters, soda ash, 500 boxes of tin plate, and 24,900 pounds of powder; that she was captured after a chase of three hours, paying no heed to four guns that were fired by her captor, but endeavouring to escape; that, when captured, she was making for the harbour of Charleston, her master knowing of its blockade, and having on board a Charleston pilot under an assumed name; that her cargo was shipped at Nassau by Henry Adderley and Co., for St. John's, N. B., by a bill of lading to order, indorsed by them in blank, and that she had on board a consignee's letter from Henry Adderley and Co., addressed to Messrs. W. and R. Wright, St. John's, N. B.

An examination of the Marshal's Report of the contents of the packages on board of the "Springbok," mentioned in the bills of lading Nos. 3 and 4, filed the 27th May, 1863, and of the Prize Commissioner's Report of the contents of the packages composing the cargo of the "Gertrude," filed the 1st June, 1863, discloses some singular facts.

The report in the case of the "Springbok" specifies eighteen bales of "army blankets, butternut colour, each marked A. (in a diamond), and numbered 544 to 548, 550, 552, and 555 to 565.

The report in the case of the "Gertrude" shows a large number of bales of "army blankets," each marked A. (in a diamond), and numbered with various numbers, scattered from 243 to 534, and then commencing to renumber again at 600.

In the inventory and appraisement of the cargo of the "Springbok," before referred to, filed the 14th October, 1863, these eighteen bales of blankets are set out as being each marked A. (in a diamond) G. C., and numbered 544 to 548, 550, 552, and 555 to 565, and as being "gray army blankets."

In an inventory and appraisement of the cargo of the "Gertrude," made after her condemnation, and filed the 25th August, 1863, the bales of army blankets found on board of her are described as each marked A. (in a diamond) G. C., and as being numbered with various numbers, scattered between 237 and 534, there being none higher than the latter number, and as being "gray blankets." So, also, in the cargo of the "Springbok" is found a bale marked A. (in a diamond), and numbered 779; while, in the cargo of the "Gertrude," are found bales, each marked A. (in a diamond), and numbered 780, 782, 784, 786, 788, 789 to 799. So, too, in the "Springbok," are found nine cases, each marked A. (in a diamond) and numbered 976 to 984, and four bales, each marked A. (in a diamond), and numbered 985 to 987 and 989, all of which cases and bales are specified in the Appraisement Report of the 14th October, 1863, by the same marks and numbers, and the four bales are therein stated to be "men's coloured travelling shirts."

In the "Gertrude" are found five bales, each marked A. (in a diamond), and numbered 988, 990 to 992, and 998, and which, in the Appraisement Report of the 25th August, 1863, are specified by the same marks and numbers, and described as "men's coloured travelling shirts." In the "Springbok" are found four cases of men's white shirts, each marked A. (in a diamond), and numbered 994 to 997. So, also, in the "Springbok" are found packages, each marked A. (in a diamond) S. I. C. & Co., and numbered 1221 to 1234, containing spool cotton and linen thread, and a package similarly marked, and numbered 1247, containing linen collars, and three packages similarly marked, and numbered 1267 to 1269, containing men's hose and gloves;

also, three packages, marked A. (in a diamond), and numbered 1264 to 1266, containing the navy and army buttons before mentioned; also, nine cases similarly marked (which, however, are specified in the Report of the 14th October, 1863, as each marked S. B. (in a diamond) S. I. C. & Co.), and numbered 1289, 1300 to 1304, 1306, 1322, and 1351, and containing shirts and drawers; also, two cases, each marked A. (in a diamond), and numbered 1307 and 1308, containing hose; also, six bales of army cloth, similarly marked, and numbered 1400 to 1405; also one case, similarly marked, and numbered 1406, containing cavalry swords and bayonets; also, one case, similarly marked, and numbered 1407, containing gloves, scarves, &c.; also, one case similarly marked, and numbered 1408, containing hair brushes; also, 114 cases of Congress gaiters, similarly marked, and numbered 1309 to 1335, 1351 to 1435, 1437 and 1440; also, fourteen cases, similarly marked, and numbered 1336 to 1349, containing army brogans; also, one case, similarly marked, and numbered 1350, containing waterproof navy boots.

In the cargo of the "Gertrude" are found thirty-five cases of Congress gaiters, each marked A. (in a diamond), and numbered 1170 to 1204; also, ten cases of army brogans, similarly marked, and numbered 1205 to 1214; also, one case, containing shirts, similarly marked, and numbered 1285.

On board of the "Springbok" is found one bale of brown wrapping paper, marked A. (in a diamond), (and which is specified in the Report of the 14th October, 1863, as marked A. (in a diamond) T. S. & Co.), and numbered 264. On board of the "Gertrude" are found a large number of bales of wrapping paper and other paper, marked A. (in a diamond) T. S. & Co., and numbered with numbers scattered between 1 and 170.

In only one instance, so far as I have observed, is the same number found on a package in each cargo—the case of needles, in the "Springbok," being marked A. (in a diamond), and numbered 998, and a case of men's coloured travelling shirts, in the "Gertrude," being also marked A. (in a diamond), and numbered 998. It would appear, from this comparison of the marks and numbers on the packages in the two cargoes, that the marking and numbering of a large portion of the packages composing both cargoes were parts of one single transaction, the numbers found in one cargo not being found in the other.

The object of the invocation into the present case of the proofs in the cases of the "Stephen Hart" and the "Gertrude" is, as is claimed on the part of the libellants, to show that S. Isaac, Campbell, and Co., who claim an interest in the whole of the cargo of the "Springbok," were the claimants of the entire cargo of the "Stephen Hart;" that Thomas Sterling Begbie, who claims an interest in the whole of the cargo of the "Springbok," and who appears to have chartered her from her owners for the voyage on which she was captured, was the sole owner of the "Gertrude;" that Spyer and Haywood, who style themselves the agents of Begbie, the charterer of the "Springbok," and also the agents of S. Isaac, Campbell, and Co., in respect to the cargo of the "Springbok," and who are also the brokers of that cargo, and the signers of its manifest, and the shippers, by the bills of lading, of a large portion of that cargo, were the brokers of the cargo of the "Stephen Hart;" and that there is the singular correspondence, which has been pointed out, between the marks and numbers on the packages in the "Springbok" and those on the packages in the "Gertrude."

The conclusion sought to be drawn from all these circumstances is that, as it is satisfactorily established that the cargoes of both the "Stephen Hart" and the "Gertrude" were, when captured, on their way to the enemy's country, into which they were designed to be introduced by a breach of blockade, and as S. Isaac, Campbell, and Co. were interested in the entire cargo of the "Stephen Hart," and are interested in the entire cargo of the "Springbok," and as Begbie is interested in the entire cargo of the "Springbok," and was the sole owner of the "Gertrude," and as the brokers of the cargo of the "Springbok" are the same persons who were brokers of the cargo of the "Stephen Hart," and as the cargoes of the "Gertrude" and the "Springbok" appear, to a large extent, to have been marked and numbered for shipment under a single system of marking and numbering, the inference is a fair one that the cargo of the "Springbok" had the same destination which this Court has found to have been the destination of the cargoes of the "Stephen Hart" and the "Gertrude." This inference I regard as a very proper one, and as warranted by the proofs invoked.

In addition to the practice of invocation, it is the uniform custom of Prize Courts to take cognizance of the status of the claimants who appear before it, with a view to see whether they come with clean hands, or whether they have before engaged in a traffic similar to that with which they are charged in the particular case. Thus, in

the "Juffrouw Elbrecht" (1 Ch. Rob. 127), the vessel was claimed as neutral property by a person who was said, by Sir William Scott, not to be a *novus hospes* in the Court, but to have appeared in former cases, in one of which he had sworn that a vessel was his property, when it was proved in evidence that she continued to be the property of her former enemy owner. Sir William Scott says: "The effect of this experience on our parts will be not to shut the door against him, because every case is to be examined principally by its own evidence; but, at the same time, it would be wrong to set up technical rules against the rules of common justice and reason, and to consider him as a person whose claims in this Court do not require an investigation peculiarly strict."

So also, in the "Argo" (1 Ch. Rob. 158), Sir William Scott remarked that the vessel was asserted to have been purchased in the enemy's country for parties claiming to be neutrals, whose transactions had appeared before the Court, in other cases, not much to their advantage. He added: "Although it is not on considerations of this kind that I must determine the present case, I cannot entirely overlook the conduct of parties, as far as it has judicially pressed itself on my notice." "The circumstances of a case may be such as to make it utterly incredible, although there are confident attestations in support of it. The circumstances may be highly unnatural and irreconcilable with any view of a fair transaction. The Court must undoubtedly be upon its guard against running wild upon mere general presumptions, but it must judge of the common transactions of life upon the same ordinary principles on which the probity and fairness of such matters is examined in the general practice of mankind."

In the "Rosalie and Betty" (2 Ch. Rob. 213), Sir William Scott says: "In considering this case, I am told that I am to set off without any prejudice against the parties from anything that may have appeared in former cases; that I am not to consider former circumstances, but to suppose every case a true one till the fraud is actually apparent. This is undoubtedly the duty, in a general sense, of all who are in a judicial situation; but, at the same time, they are not to shut their eyes to what is generally passing in the world—to that obvious system of covering the property of the enemy, which, as the war advances, grows notoriously more artificial. Higher prices are given for this secret and dishonourable service, and greater frauds become necessary. Old modes are exploded as fast as they are found ineffectual, and new expedients are devised to protect the unsound part better from the view of the Court.

"Not to know these facts, as matters of frequent and not unfamiliar occurrence, would be not to know the general nature of the subject upon which the Court is to decide. Not to consider them at all, would not be to do justice. The very nature of the inquiry necessarily suggests something of this kind for the inquiry is to see whether the property does *bonâ fide* belong to those who are ostensibly represented to be the proprietors. It is an inquiry, therefore, which is necessarily attended with some doubt *in limine*. No reasonable men will say that the Court is to look at cases in the same manner where no special reason for fraud exists, and where the enemy is driven to it by a necessity that is notorious, as the only means of getting home his property, and when such artifices are not unfrequently known to prevail; and more especially when the persons appearing as claimants have been exposed to the experience of the Court, as having engaged in such a trade, and do not stand before the Court with those general credentials which belong to the conduct of a pure and unimpeached neutrality. I am afraid the observation of those who attend this Court will apply these remarks to the owner of the ship. The claimant of the cargo has not, in my recollection, appeared before the Court on any former occasion. I do not say that the conduct of the owner of the ship will, in general, affect the cargo; but if the parties appear bound up together, in an intimate connection and co-operation, in measures which a Court cannot see without disapprobation, such an occurrence cannot but form a foundation for the unfavourable reception of the case of a party so connected in that transaction."

In the case of the "Experiment" (8 Wheaton, 261), which was a case of alleged collusive capture of a privateer, Mr. Justice Story, in delivering the opinion of the Court, says:—

"It cannot escape the attention of the Court, that this privateer has already been detected in a gross case of collusive capture, on the same cruise and under the same commission. This is a fact of which, sitting as a Court of Admiralty, we are bound to take notice; and it certainly raises a presumption of ill-faith in other transactions of the same parties, which can be removed only by clear evidence of honest conduct. If the circumstances of other captures during the same cruise are such as lead to serious doubts of the fairness of their character, every presumption against them is greatly strengthened; and suspicions once justly excited in this way ought not to be easily satisfied."

In the "Nancy" (3 Ch. Rob., 122), Sir William Scott alludes to the fact that the claimants in the case had not conducted themselves, in some cases which had come before the Court, with that purity which ought to distinguish the conduct of considerable merchants.

The case of the "Nancy" is cited with approbation in "Moseley on Contraband," 99, as supporting the principle that the known character of the owners and agents of a vessel, as connected with contraband trade, is a circumstance to be considered upon the question as to whether there be so much reason to doubt the regular papers of the vessel as to warrant the Court in disregarding them.

The principles laid down in the cases I have cited apply with peculiar force to the present case. I referred, in my opinion, in the case of the "Stephen Hart," to the manner in which the trade in contraband goods, and in running the blockade to the ports of the enemy, had been carried on during the present war. A large portion of that trade has been conducted through the port of Nassau, the goods being sent from England to that port, and there transhipped in bulk into swift steamers, such as the "Gertrude" was, in which to be carried through the blockade. This course of trade has come to be a regular system, and when parties like S. Isaac, Campbell, and Co., and Begbie are before the Court, who have been engaged in carrying on that species of trade in other cases, it is impossible for the Court to shut its eyes to the notorious character of the traffic, or to the unfavourable position occupied by those claimants.

I announced, in the case of the "Stephen Hart," the leading principles of public law, which apply to the present case, and also to the case of the "Peterhoff," and discussed them at considerable length. Those principles, as established by the highest authorities in England, as well as in this country, are, that articles contraband of war, destined for the aid and use of the enemy, and on transportation by sea to the enemy's country are liable to capture as lawful prize of war, if seized while being so transported; that if a cargo be dispatched from a neutral port, with an intention, on the part of the person dispatching it, that, in violation of a blockade known to exist, it shall enter a port of the enemy, it may be captured as lawful prize; that contraband articles destined, on their departure from a neutral port, to be delivered to the enemy, either by being carried directly into a port of the enemy in the vessel in which they leave the neutral port, or by being transhipped at another neutral port into another vessel, are the subject of capture; that if the contraband articles are really intended to be delivered to the enemy at some other place than the neutral port named in the papers of the vessel as the destination of the cargo, and that neutral port is to be used merely as a port of call or of transhipment, and the goods are not to be delivered there for discharge and general consumption or sale there, and if, in that way, the representations contained in the papers of the vessel are false and fraudulent as to the real destination of the goods, they are liable to capture; that no principle of the law of nations, and no consideration of the rights and interests of lawful neutral commerce, requires that the mere touching at a neutral port, either for the purpose of making it a new point of departure of the vessel to a port of the enemy, or for the purpose of transhipping the contraband goods into another vessel, which may carry them to the destination which was intended for them when they left their port of departure, can exempt the goods from capture; that the division of a continuous transportation of contraband goods into several intermediate transportations, by means of intermediate voyages by different vessels carrying such goods, cannot cause a transportation which is, in fact, a unit, to become several transportations, although to effect the entire transportation of the goods requires several voyages by different vessels, each of which may, in a certain sense, and for certain purposes, be said to have its own voyage, and although each of such voyages, except the last one in the circuit, may be between neutral ports; that such a transaction cannot make any of the parts of the entire transportation of the contraband goods a lawful transportation, when the transportation would not have been lawful if it had not been thus divided; that whether the vessel is to stop at the neutral port merely as a port of call, and then go on to the enemy's port, or whether the cargo is to be transhipped at the neutral port to another vessel to be transported to the enemy's port, there is, in either case, an absence of all lawful neutral commerce to a neutral port, and the transportation of the contraband goods is, in either case, to be considered as a unit, from the port of lading to the port of delivery in the enemy's country; that if any part of such transportation be unlawful, it is unlawful throughout; and that the contraband goods are subject to capture, as well before arriving at the neutral port, as during their transportation by sea from such neutral port to the port of the enemy.

I shall not recapitulate here the authorities and the reasoning on which these principles are upheld, but shall refer to my opinion in the case of the "Stephen Hart,"

for their full exposition; and I do this the more readily, as the cases of the "Stephen Hart" and the "Peterhoff," as well as this case of the "Springbok," have, it is understood, been carried by appeal to the Supreme Court of the United States.

The first inquiry is, whether, upon these principles, the cargo of the "Springbok" is liable to condemnation. The contraband goods on board of the "Springbok" are alleged to be the army blankets, the navy buttons, the army buttons, the army cloth, the cavalry swords, the bayonets, the army brogans, the navy boots, the tin plate, and the coil of rope, to say nothing of the saltpetre and the drugs, which formed a portion of the contents of the packages covered by the bills of lading Nos. 2 and 6, the contents of which packages were not embraced in the report of the Marshal filed the 27th May, 1863, but were only disclosed in the appraisal report of the Prize Commissioners filed the 14th October, 1863. While I do not decide that all of these articles are necessarily contraband of war, it is sufficient to say that some of them are clearly so.

The well settled rule of law is that, where contraband goods, destined for the use of the enemy, are found on board of a vessel, all other goods on board of that vessel belonging to the owner of the contraband articles, even those goods which are innocent, must share the fate of the contraband goods. (Halleck on International Law, chap. 24, sec. 6, p. 573.)

The penalty of contraband extends to all the property of the same owner, involved in the same unlawful transaction; and, therefore, if articles which are contraband, and are going to the enemy, are on board of the same vessel with articles which are not contraband, and all the articles belong to the same owner, all will be alike condemned, the innocent articles being affected with the contagion of the contraband articles. (3 Phillimore on International Law, sec. 277; 2 Wildman's International Law, 217; "The Sarah Christina," 1 Ch. Rob. 237.)

As, in the present case, the entire cargo is claimed by the same owners, if the contraband articles are to be condemned as having been on their way to the enemy at the time they were seized, all the rest of the cargo must be likewise condemned.

I now proceed to an examination of the depositions *in preparatorio* taken in the present case.

Captain May says (Int. 3) that he does not know on what pretence the capture was made.

Hertel, the mate, says (Int. 3) that the seizure was made on the supposition that the cargo was contraband of war.

Kerns, the boatswain, says (Int. 3) that he understood that the seizure was made because the bills of lading did not show what was in some of the cases on board.

Millichamp, the cook and steward, says (Int. 3) that he understood they were captured because they had goods contraband of war on board, and that he heard no other reason given.

It is very singular that Hertel and Millichamp, both of them, assign the suspicion of contraband as the alleged reason for capture, and that Kerns assigns substantially the same reason, namely, that the bills of lading did not show the contents of some of the packages, while Captain May assumes not to know what reason was assigned for the capture.

It is ascertained that there were contraband goods on board, and it also appears that the contents of a very large portion of the packages covered by the bills of lading are not disclosed in the bills of lading, or in any other papers on board of the vessel, and that the only articles which are specified either in the bills of lading, the manifest, the cargo books, or any other papers found on board of the vessel, are the tea, coffee, ginger, pimento, cloves, pepper, and tin.

Captain May says (Int. 11) that the vessel was bound to Nassau, N. P., when seized; that the voyage began at London, and would have ended at some port in the United Kingdom; that the cargo was general merchandize; and that he is not aware that she had any goods contraband of war on board. That she had contraband goods on board, and what they were, we have already seen.

It is a principle of prize law, that a master cannot be permitted to aver his ignorance of the contents of contraband packages on board of his vessel; and that he is bound, in time of war, to know the contents of his cargo. ("The Oster Risoer," 4 Ch. Rob. 199.)

Hertel says (Int. 11) that the voyage began at London, and was to have ended, according to the shipping articles, at any port in the United Kingdom of England or Ireland, or any port on the Continent of Europe between Brest and the River Elbe; that the voyage was to Nassau; that he does not know where they intended to go after leaving Nassau; that they intended to discharge their cargo at that place; that it was

a general cargo; that he has no knowledge, information or belief, as to the contents of the packages; that he took them all on board, and gave receipts for them; and that, to the best of his knowledge, information, and belief, there were on board no goods contraband of war.

Kerns says (Int. 11) that the vessel was bound to Nassau with a general cargo, the contents of which he does not know, and that he does not know that she had on board any goods contraband of war.

Millichamp says (Int. 11) that the voyage was from London to Nassau, and thence to any port in the West Indies, North America, or the United States, and thence back to any port in the United Kingdom, according to the shipping articles, which he signed; that the cargo was all on board when he joined the vessel, except two cases or boxes, which were put on board the day before they sailed; and that he knows nothing concerning the cargo, or whether or not she had on board anything contraband of war.

The two cases referred to by Millichamp are undoubtedly the two packages mentioned in the bill of lading No. 3, and which are the sole contents of that bill, one of them being the bale of brown wrapping paper, and the other being one of the two cases containing the army buttons. Bill No. 3 is dated the 8th December, while bills Nos. 2 and 6 are dated the 6th December, and bills Nos. 4 and 5 have no date.

Captain May says (Int. 16) that the vessel was consigned to B. W. Hart, Esq., Nassau, and the cargo to the order of the charterers, endorsed on the bills of lading; that the goods were to be delivered at Nassau for account and risk of Begbie and Co., of London, the charterers; and that he does not know to whom the goods would belong, if restored.

Hertel says (Int. 16) that the cargo was shipped by Spyer and Haywood, of London, consigned to B. W. Hart, of Nassau; and that it was to have been delivered at Nassau, but he cannot say for whose real account, risk, or benefit.

Captain May says (Int. 17) that there were three sets of either three or four bills of lading of the goods on board of the vessel; and that there were no false bills of lading, nor any signed other than those on board when she was taken. He also says (Int. 18) that there were no papers on board showing the ownership of the cargo; and (Int. 19) that the charter-party for the voyage was signed by Begbie and Co.

The master and all on board knew (Int. 21) of the blockade of the ports of the enemy.

I am entirely satisfied, from all the evidence in the case, that the cargo of the "Springbok" was intended to be delivered in the enemy's country, by transhipment, at Nassau, into a vessel in which it should be carried through the blockade, and that such was the intended destination of the cargo on its departure from England. The papers found on board of the vessel, so far as they represent Nassau as the ultimate destination of the cargo, were false and simulated. There was no *bonâ fide* intention of landing the cargo at Nassau for sale or consumption there, so that it might be incorporated at Nassau into the common stock in that market; but, if it was to be landed there at all, it was only to be so landed for the purpose of being transhipped, in bulk, into another vessel, in pursuance of the original destination of the cargo to the enemy's country. The port of Nassau was to be used only as a port of transhipment of the cargo.

In the case of the "Thomyris" (Edwards' Adm. Rep. 17), Sir William Scott says:—

"It is a clear and settled principle that the mere transhipment of a cargo at an intermediate port will not break the continuity of the voyage, which can only be effected by a previous actual incorporation into the common stock of the country where the transhipment takes place. If there was nothing more than a transhipment of the cargo from one vessel to another, that will not alter the transaction in any respect, and it must still be considered as the same continuous voyage to the port where the cargo was ultimately to be delivered."

Many authorities, to the same effect, were cited by me in the case of the "Stephen Hart." The case of the "Joseph" (8 Cranch, 451), may also be referred to.

The absence from the bills of lading of all mention of the contents of any of the packages composing the cargo, except the tea, coffee, ginger, pimento, cloves, and pepper, and the fact that the manifest makes no mention of the contents of any of the packages, leads to the conclusion that, if the master did not, in fact, know what were the contents of the packages, his ignorance was a studied ignorance. But the more reasonable conclusion, in view of his declared want of information as to the cause of his capture, while the other witnesses frankly declare the cause to have been the suspected presence of

contraband goods, or the defective character of the bills of lading, is that his ignorance is affected and not real.

The circumstance that all the bills of lading say that the freight is to be paid "as per charter-party" shows that the charterer of the vessel (Begbie) must have been interested in the whole of the cargo. The inference that there was a single ownership of the whole of the cargo, although part of it was shipped in the name of Moses Brothers, and the rest of it in the name, some of Spyer and Haywood, and some of Spyer and Haywood, as agents, is deducible from the fact that Spyer and Haywood, as agents for the charterer, instructed Captain May, on his arrival at Nassau, to report to Mr. Hart for orders as to the delivery of the cargo; and from the further fact that Spyer and Haywood, as agents for S. Isaac, Campbell, and Co., inclosed, in a letter to B. W. Hart, the bills of lading Nos. 5 and 6, which comprise the entire contents of the cargo, except the two packages mentioned in bill No. 3, being the bale of brown paper and one case of the army buttons; and from the further fact that Spyer and Haywood signed the indorsement on the charter-party, and also, as brokers, signed the manifest of the entire cargo. There was, therefore, a single ownership for the entire cargo, both contraband and non-contraband; and it is fair to infer, from all the evidence, that there must have been a single destination for the whole of the cargo. If, therefore, any particular destination can with certainty be affixed to any portion of the cargo, the same destination must, on all the evidence, be ascribed to the whole of it.

The absence from on board of the "Springbok" of any of the invoices of the cargo, is a fact of peculiar significance in the present case. The bills of lading mention no articles except the tea, coffee, ginger, pimento, cloves, and pepper. The manifest specifies nothing as to the contents of the packages. The cargo books only mention tea, coffee, ginger, cloves, pepper, and tin. If the invoices had been on board, they would, if they were as true and full as genuine invoices should be, have disclosed the full particulars of the cargo. The inquiry is a pregnant one: Why were the invoices not on board of the vessel? If they had been, their disclosure of the contraband articles could have worked no injury, if those contraband articles were not on their way to the enemy of the United States. What, then, is the proper inference to be drawn from the absence of the invoices? Most certainly that the contraband articles which were, in fact, on board, and whose existence was not disclosed by the bills of lading, the manifest, or the cargo books, but whose presence would have been disclosed by true and proper invoices, were on board for some unlawful purpose and upon some unlawful destination. Such purpose could, on all the evidence in the case, only have been to supply the enemy of the United States, and such destination could only have been the country of the enemy. Captain May testifies to the existence of invoices, and says (Int. 31), that he believes that invoices and duplicate bills of lading were to be sent to Nassau by mail steamer. Spyer and Haywood, as agents for S. Isaac, Campbell, and Co., inclosed to B. W. Hart, of Nassau, in their letter to him of the 8th December, 1862, "under instructions from Messrs. S. Isaac, Campbell, and Co.," "bills of lading for goods shipped per 'Springbok;'" but they did not inclose in that letter invoices of the goods covered by the bills of lading. Why should they not have done so, if the goods were, in the way of lawful commerce, to be landed at Nassau for sale or consumption there, and to be incorporated there into the common stock of that market? What other motive could there have been for sending the invoices by mail, as suggested by the master, while the bills of lading were sent by the vessel herself, except to conceal from the officers of any cruiser of the United States by whom the papers of the vessel should be examined on her voyage, all knowledge that contraband articles were on board? And what motive could there be for concealing that knowledge if, in fact, those contraband articles were not destined for the enemy of the United States, but were destined for use or sale at the neutral port of Nassau. The effect of the dissembling of contraband goods in the papers of a vessel is commented upon by Sir William Scott in the "Richmond" (5 Ch. Rob., 290); and the absence from on board of a vessel in time of war of invoices of her cargo is laid down by all the authorities as being a suspicious circumstance, as affecting the question of the honesty of the commerce (1 Kent's Commentaries, 157; Halleck on International Law, chap. 25, sec. 25, p. 622). And in some of the Treaties of the United States with foreign countries it has been provided that, in time of war, the vessels of both nations, being laden, must be provided, among other papers, "with certificates containing the several particulars of the cargo," "that so it may be known whether any forbidden or contraband goods be on board the same" (the "Amiable Isabella," 6 Wheaton, 1; Treaty of 1795 with Spain, Article XVII; 8 U. S. Stats. at Large, 148; Convention of 1800 with France, Article XVII, id. 186). The foundation of this rule of law, which exists and is to be administered, whether embodied in Treaty stipulations or not, is that, in

time of war, a vessel should be furnished with documents showing the particulars of her cargo, particularly where, as in the present case, the vessel is documented for a neutral port in the vicinity of the ports of one of the belligerents, and that neutral port is one extensively used as a mere port of call and of transhipment for vessels and cargoes bound to ports of the enemy of the United States, and where, too, as in the present case, the parties claiming to own the cargo have been engaged in previous adventures connected with running the blockade, or introducing cargoes of contraband goods into the enemy's country.

The facts that the original bills of lading Nos. 5 and 6, made out to "order," are indorsed in blank; that the bill of lading No. 2, which is a duplicate of No. 6, and is "a Captain's copy," is indorsed in blank; that the very brief letter of instructions to Captain May from Spyer and Haywood, as "agents for the charterer," dated the 8th December, 1862, simply directs him to proceed to Nassau, N. P., "and, on arrival, report yourself to Mr. B. W. Hart there, who will give you orders as to the delivery of your cargo, and any further information you may require"—and that Spyer and Haywood, as agents for S. Isaac, Campbell, and Co., sent to Hart the bills of lading for substantially the whole of the cargo—justify the conclusion that the cargo in bulk, as a whole, was put under the orders of Mr. Hart, not to be sold or used at Nassau, but to be forwarded by transhipment to some other destination. What was that destination? It is clearly indicated by the initials "C. S. N." stamped upon the 50,000 navy buttons, those initials standing for the words "Confederate States' Navy," and by the initials "I," "C." and "A." stamped upon the 80,000 army buttons, which severally represent the words "infantry," "cavalry," and "artillery." The destination of those navy buttons was unquestionably the country of the enemy of the United States, which enemy styles itself "The Confederate States of America." The navy buttons must have been destined for the use of the navy of the enemy, and the army buttons were for the use of its army. Such destination was intended by S. Isaac, Campbell, and Co., for the buttons are all of them stamped with their name and place of business in London. Such also was the only appropriate destination of the "gray" or "butternut colour" army blankets. And all of those articles were to be made of use to the enemy by being introduced into the country of the enemy.

The fact that the claim of the Isaacs and Begbie is not signed by them, but is signed by Mr. Kursheedt, their proctor of record, and that the test oath to the claim is made by the proctor, has not escaped my attention. The claim states everything on information and belief. The test oath, although made on the 24th March, 1863, forty days after the service of process on the cargo, states that it is impossible to communicate with the claimants, all of whom, it says, reside in London, in time to allow them to make the claim and test affidavit. Yet the affidavit made by the proctor states that his information as to the matters set up by him is derived from letters and communications then very lately received by him from the claimants, and from documents in his possession placed there by the claimants, and which authorize him to intervene and act as agent as well as proctor for them as to the cargo. It would seem as if the time which was sufficient for sending from New York to London intelligence of the capture of the cargo, and for sending back the letters, communications, and documents mentioned, but none of which were placed before the Court, would have been sufficient to procure the signatures and oaths of the claimants of the cargo to a claim and a test affidavit. The same gentleman who thus acted as proctor in the case of the "Springbok" was the proctor for S. Isaac, Campbell, and Co. in the case of the "Stephen Hart." In that case a claim was put in to the cargo, signed at London by Samuel Isaac, and the test affidavit thereto was made by him at London. I also find that the test oath made by Mr. Kursheedt in the case of the "Springbok," and that made by Samuel Isaac in the case of the "Stephen Hart," contain the same peculiar form of averment, that it was not intended that the vessel should enter, or attempt to enter, any port of the United States, or that her cargo should be delivered at any such port. I cannot but regard with suspicion the circumstances that the claim and oath are not made by the claimants, but by their proctor, that so unsatisfactory an excuse is given therefor, that the papers and documents which were so weighty in the mind of the proctor in inducing his oath were not put before the Court, and that the test oath is so peculiarly worded.

Upon the whole case, my conclusion is that there are abundant grounds for condemning not only the contraband articles found on board of the vessel, as having been destined for the enemy's country, but also the entire cargo, as belonging to the owners of the contraband goods.

It is quite probable, from the coincidence of dates, that it was intended that the cargo of the "Springbok" should be carried from Nassau to the enemy's country by the

"Gertrude." Begbie, the owner of the "Gertrude," sent her from Greenock on the 22nd January to Nassau. The "Springbok," chartered by Begbie, and with a cargo on board in all of which he had an interest, had sailed from Falmouth for Nassau on the 23rd December previous. She was captured on the 3rd February about 150 or 200 miles east of Nassau. The "Gertrude" would, in due course, arrive at Nassau but a few days after the "Springbok."

It is claimed that the vessel is not subject to condemnation, even though she was carrying contraband articles intended for the enemy. It is urged that her owners had no interest in any of the cargo, and had chartered her for a voyage specifically to Nassau, where, by the charter-party, she was to deliver the cargo, and that neither her owners nor her master had any knowledge that she was carrying any contraband articles, much less that those contraband articles were leaving England on a destination to the country of the enemy. But the Court is of opinion that, under all the circumstances disclosed in this case, the vessel must be held to have been employed in carrying on the unlawful enterprise of transporting contraband articles on their way to the enemy's country, to be there introduced by a violation of the blockade, and that she was so employed under such a state of facts as makes her owners responsible for the unlawful transportation of the contraband articles, and for the acts of the master in relation to such transportation, to such an extent as to justify the condemnation of the vessel. Formerly, the mere fact of carrying a contraband cargo rendered the vessel liable to condemnation, but the modern rule is different. The carrying of contraband articles is now attended only with loss of freight and expenses, unless the vessel belongs to the owner of the contraband articles, or unless there are circumstances of fraud as to the papers and the destination of the vessel or the cargo, and thus an attempt, under colourable appearances, to defeat the rights of the belligerent. (The "Ringende Jacob," 1 Ch. Rob. 89; the "Jonge Tobias," Id. 329; the "Franklin," 3 Ch. Rob. 217.) In this last case, the owner of the vessel, who was not the owner of the cargo, was himself a neutral, and had entered into a charter-party for a voyage of the vessel from one neutral port to another neutral port. In all these particulars he occupied the position of the owners of the "Springbok." But, although, in the case of the "Franklin," the vessel was ostensibly bound to a neutral port, Sir William Scott held that she was in fact bound to a belligerent port, and condemned her because she had on board contraband goods destined for a belligerent port. And he announces it as the settled rule of law "that the carriage of contraband with a false destination will work the condemnation of the ship as well as the cargo." Where the owner of the vessel is himself privy to such carriage of contraband, or where the master of the vessel, as the agent of such owner, interposes so actively in the fraud as to consent to give additional colour to it by sailing with false papers, the modern relaxation in favour of the vessel no longer exists. (The "Franklin," 3 Ch. Rob. 217, note; the "Mercurius," 1 Ch. Rob. 288, note; the "Edward," 4 Ch. Rob. 68; the "Neutralitet," 3 Ch. Rob. 295.) These cases are cited with approbation in Carrington *v.* the Merchants' Insurance Company (8 Peters, 495, 520, 521). In delivering the opinion in that case, Mr. Justice Story says: "The belligerent has a right to require a frank and *bonâ fide* conduct on the part of neutrals, in the course of their commerce in times of war; and, if the latter will make use of fraud and false papers to elude the just rights of the belligerents and to cloak their own illegal purposes, there is no injustice in applying to them the penalty of confiscation. The taint of the fraud travels with the party and his offending instrument during the whole course of the voyage, and until the enterprise has, in the understanding of the party himself, completely terminated."

In the present case, we find that Begbie, the charterer of the vessel, is set up as the owner, jointly with S. Isaac, Campbell, and Co., of the whole of the cargo; that Spyer and Haywood, the agents of Begbie, the charterer of the vessel, were also the agents of S. Isaac, Campbell, and Co., the co-owners of the cargo; that Captain May, the master of the vessel, is the son of Thomas May, who is one of the three owners of the vessel; that Captain May signed bills of lading for 1,394 packages of merchandize, to be transported, in time of war, ostensibly to the port of Nassau, the principal port of call and transhipment for vessels and cargoes destined to ports of the enemy by a breach of blockade; that the contents of only 613 of the packages covered by the bills of lading were specified in them, the articles so specified being only the tea, coffee, ginger, pimento, cloves, and pepper; that he sailed with a manifest specifying not a single article contained in his cargo, but merely giving the marks and numbers on the packages, and describing them as cases, bales, boxes, chests, bags, kegs, and casks; that he sailed without any invoices containing the particulars of his cargo; that he was appointed to the command of the vessel, as he himself says, by her owners; that the only instructions he carried with him were instructions from Spyer and Haywood, as

agents for Begbie, the charterer, to proceed to Nassau, aad to report himself to Mr. Hart there, and receive orders from him as to the delivery of the cargo; that his failure to demand and carry with him full and clear invoices, containing full particulars of his cargo, was a deliberate one, because he says (Int. 31) that the invoices were to be sent to Nassau by mail-steamer, thus showing that he knew of the existence of invoices of the cargo; and that he declares his ignorance of the contents of the cargo, or that there were any goods contraband of war on board—an ignorance which the Court cannot, under the circumstances, regard as a real ignorance, and which, if it were a real ignorance, is inexcusable on the part of a master in time of war.

The conclusion is irresistible, that the master was carrying this cargo, composed, in part, of contraband articles under false papers. He, and the owners who appointed him as their agent, must be regarded, under the circumstances, as affected with knowledge of the contraband articles on board, and of their destination, to the same extent as if actual knowledge thereof were brought home to the master and the owners. The master and, through him, the owners, must be held to the same knowledge of the carriage by the vessel of the navy buttons, which could have but one destination, as if they had personally and knowingly put those articles on board. The master's ignorance that such navy buttons were on board, when he would have learned the fact if he had required the production to him, so that he might carry them on board of his vessel, of invoices containing full particulars of the cargo, was a wilful shutting of his eyes, under such circumstances as to make him and the owners of the vessel responsible for the carrying of whatever contraband articles should turn out to be on board, destined for the use of the enemy. Moreover, charged, as he and his owners must therefore be, with knowledge that the contraband articles were on board, and were going to the enemy, the owners must be held responsible for the documenting of the cargo by the master, by means of the bills of lading, to the neutral port of Nassau, when it was in fact destined, composed in part of contraband goods, to a port of the enemy. This was, on the part of the master, for whose acts the owners of the vessel are responsible, a carrying of the contraband articles under a false destination and with false papers, thus bringing the case directly within the authorities before cited. If the owner of a vessel places it under the control of a master who permits it to carry, under false papers, contraband goods, ostensibly destined for a neutral port, but in reality going to a port of the enemy, he must sustain the consequence of such misconduct on the part of his agent. (The "Ranger," 6 Ch. Rob. 125; Jecker *v.* Montgomery, 18 Howard, 110 119; the "Mercurius." 1 Ch. Rob. 80.)

In the "Vrouw Judith" (1 Ch. Rob. 150) the principle is laid down by Sir William Scott, in respect to the act of the master of a vessel in breaking a blockade, that such act binds the owner, in respect to the conduct of the vessel, as much as if it was committed by the owner himself; that, if the master abuses his trust as to the powers with which the law invests him, it is a matter to be settled between him and the person who constituted him master; but that his act of violation is, as to the penal consequences, to be considered as the act of the owner.

So, also, in the "Columbia" (1 Ch. Rob. 154) it was held, by Sir William Scott, that the penalty of breaking a blockade attaches to a vessel by the conduct of the master, although the owner be ignorant of the blockade. The principle of that case was that, although the intention of the owner of the vessel may have been innocent, he will be penally affected by the misconduct of his agent, who has misused the trust confided to him, and that, in such case, the act of the agent, such as the act of a master in breaking a blockade, affects the owner of the vessel to the extent of the whole of his property concerned in the transaction. The same general principle was recognized by this Court in the case of the "Hiawatha," and by the Supreme Court on appeal in the same case. (2 Black, 635, 678.) Both Courts held that the neutral owners of the cargo of the "Hiawatha," though not cognizant of the blockade, were responsible for the act of the master of the vessel in violating the blockade. The Supreme Court affirmed the decision of this Court condemning both vessel and cargo, and declared that "the cargo must share the fate of the vessel."

The act of the master of the "Springbok" in signing bills of lading of the character of those which he signed, and in sailing with a manifest giving no information as to the contents of his cargo, and in not carrying invoices giving particulars of the cargo, and then testifying to his ignorance as to what he had on board, can be regarded in no other light than as a concealment of the real character of the contraband goods, so as to subject the vessel to condemnation, as the result of such fraud, when, under other circumstances, she might go free, even though the goods were confiscated. (Moseley on Contraband, 97, 98.)

It is well settled that, from the moment a vessel, having on board contraband articles which have a destination to a port of the enemy, leaves her port of departure, she may be legally captured; that it is not necessary to wait until the goods are actually endeavouring to enter the enemy's port; and that the transportation being illegal at its commencement, the penalty immediately attaches. (Halleck on International Law, chap. 24, sec. 7, p. 573; Wildman's "International Law," vol. ii, p. 218; 1 Duer on Insurance, 626, sec. 7; the "Imina," 3 Ch. Rob. 167; the "Trende Sostre," 6 Ch. Rob. 390, note; the "Columbia," 1 Ch. Rob. 154; the "Neptunus," 2 Ch. Rob. 110.)

There has been no application made to the Court for leave to furnish further proofs, but an appeal to the Supreme Court was taken within ten days after the decree was made. Moreover, I do not think this case is one in which the owners of either the vessel or the cargo have so conducted as to entitle themselves to supply further proof. The conduct of the master, representing the owners of the vessel, was such, in affecting his ignorance or concealing his knowledge of the contraband articles on board, as not to justify the favourable consideration of the Court towards the vessel; and the owners of the cargo are not parties to whom any such favour can be accorded. The privilege of further proof is always forfeited where there has been any deception or fraud. (The "Eenrom," 2 Ch. Rob. 1.)

The vessel and the cargo must both of them be condemned.

No. 28.

Lord Lyons to Earl Russell.—(Received February 7.)

My Lord, *Washington, January* 26, 1864.

IN your despatch of the 29th December last, your Lordship directs me to remonstrate against the delay in promulgating the reasons on which the decree condemning the "Springbok" was founded; and you at the same time inform me that Her Majesty's Government would hesitate to instruct me to interfere further in the case, until it had been heard before the Court of Appeal.

I learn, however, from Her Majesty's Consul at New York, that the opinion of the Prize Court stating at length the reasons for condemning this vessel has now been made public and printed, and that he has transmitted copies of it to your Lordship in a despatch dated the 22nd instant.

I think, therefore, that I shall conform to your Lordship's wishes by abstaining from making any representation to the Government of the United States, until Her Majesty's Government have considered these reasons. Should it appear that the delay in publishing them still constitutes a grievance which should be made a subject of remonstrance, the remonstrance would come with more effect, if made upon instructions issued after Her Majesty's Government were aware that they had at last been published.

I have, &c.

(Signed) LYONS.

No. 29.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, February* 20, 1864.

HER Majesty's Government have had under their consideration, in communication with the proper Law Advisers of the Crown, the Judgment pronounced by Judge Betts in the case of the "Springbok," of which a copy has been forwarded to this Office by Consul Archibald, and I have now to state to you that Her Majesty's Government see no reason to alter the opinion which they had previously formed in regard to this case, as expressed in the letter to Mr. Begbie and Messrs. Barter and Co., of which a copy was inclosed in my despatch to Mr. Stuart of the 26th September last, namely, that they could not officially interfere in the matter, but that the owners must be left to the usual and proper remedy of an appeal.

On the contrary, a careful perusal of this elaborate and able Judgment, containing the seasons of the Judge, the authorities cited by him in support of it, and the important

evidence properly invoked from the cases of the "Stephen Hart" and the "Gertrude" (which Her Majesty's Government have now seen for the first time) in which the same parties were concerned, goes so far to establish that the cargo of the "Springbok," containing a considerable portion of contraband, was never really and *bonâ fide* destined for Nassau, but was either destined merely to call there or to be immediately transhipped after its arrival there without breaking bulk and without any previous incorporation into the common stock of that Colony, and then to proceed to its real destination, being a blockaded port. The complicity of the owners of the ship, with the design of the owners of the cargo is, to say the least, so probable on the evidence that there would be great difficulty in contending that this ship and cargo had not been rightly condemned.

I am, &c.
(Signed) RUSSELL.

No. 30.

Messrs. Barter and Co. to Lord Stanley.—(Received May 28.)

My Lord, 38, *Gracechurch Street, London, May 25,* 1867.

WE duly received your Lordship's communication of the 11th ultimo, informing us that no answer had been received from Her Majesty's Minister at Washington in the matter of the "Springbok," and we beg to inform you that the decision of the Supreme Court of the United States has been received in this country, and we beg to inclose you copy, by which you will see that the decision of Judge Betts has been affirmed as regards the cargo, but reversed as regards the ship (in which latter we are interested), but without costs and damages.

By this we understand that the Supreme Court merely give up to the owner of the ship the sum which she realized when sold by auction after the value had been much depreciated, through plunder and want of care being taken of her after capture.

This does not appear to the owner to be justice and as he has now exhausted the American Courts, we trust Her Majesty's Government will consider the case, and be enabled to assist him in obtaining some remedy for the injustice and wrong of which he has been the victim.

We have, &c.
(Signed) W. BARTER AND Co.

No. 31.

Foreign Office to Messrs. Barter and Co.

Gentlemen, *Foreign Office, August* 3, 1867.

WITH reference to my letter of the 25th ultimo I am directed by Lord Stanley to acquaint you that his Lordship having received the Report of the Law Officers of the Crown on the case of the "Springbok" is now in a position to inform you of the view taken by Her Majesty's Government of the claims put forward by the owners of that vessel.

In the first place, Lord Stanley is advised that the Judgment of the Supreme Court in regard to the "Springbok" affords no ground of complaint;

Secondly, that the sale of the ship by auction was in accordance with the rules of law and practice of the United States, and that the owners are entitled to the amount which the vessel realized upon the sale by auction, and that, in the absence of my special circumstances, the owners who have succeeded in the Prize Court are only entitled to this amount.

With reference to your statement that the vessel had been, when sold, much depreciated, through plunder and want of care being taken of her after capture, Lord Stanley is advised that, if such has been the case, there might be ground for remonstrance and intervention in favour of the owners by Her Majesty's Government, but unless and until very clear evidence of this is furnished to his Lordship, he would not consider himself justified in interfering.

Lastly, with reference to your letter of the 20th June, Lord Stanley is advised that if the owners of the "Springbok" accepted the sum which the United States' Government is prepared to pay, under protest and without prejudice to any claim they may have for further compensation, they would not prejudice such further claims, if any, as they might be hereafter in a position to make against the United States' Government.

I am, &c.
(Signed) E. HAMMOND.

No. 32.

Mr. Forbes Campbell to Lord Stanley.—(Received February 6.)

My Lord, 45, *Dover Street, Piccadilly, London, February 5*, 1868.

AS the agent and attorney of the owners of the cargo of the British barque "Springbok," I have the honour to transmit herewith to your Lordship a copy of the "opinion" or sentence delivered on the 3rd January, 1867, by the Supreme Court of the United States, whereby the decree of condemnation of said cargo, pronounced by the District Prize Court of New York on the 1st August, 1863, is affirmed.

Applications by the owners of the cargo for aid in the support of their rights were addressed to Her Majesty's Government on the 27th February, the 10th, 14th, and 18th March, the 28th April, the 19th May, and the 20th August, 1863, to which applications Her Majesty's Government replied on the 27th February, the 12th, 14th, and 26th March, the 5th May, the 13th June, and the 19th September, 1863, declining to interfere or make any representation to the Government of the United States until a definitive sentence should be pronounced by the Prize Court, in the last resort, of the United States.

I now beg leave to lay before your Lordship a copy of a joint opinion given by Mr. George Mellish, Q.C., and Mr. W. Vernon Harcourt, Q.C., wherein these eminent jurists show that the sentence of the Supreme Court is erroneous and unjust, and declare the condemnation and forfeiture of the cargo of the "Springbok" "to be a miscarriage of justice."

In that opinion I have no doubt the Law Officers of the Crown will concur.

I beg leave respectfully to call your Lordship's particular attention to the certified copies of the "Springbok's" manifest and bills of lading, to the declaration of Mr. B. W. Hart, the consignee at Nassau, to the declaration of Mr. T. S. Begbie, the owner of the "Gertrude," to the Memorial on behalf of the owners, and to the other documents which will be found herewith.

I feel confident that Her Majesty's Government will, on the strength of these documents, feel warranted in taking up the case of the owners of the cargo, and demanding, on their behalf, compensation from the United States's Government for the unlawful seizure, sale, and condemnation of their property.

It is submitted that the amount of compensation ought to be determined by the sworn valuation of the cargo made at Nassau in February 1863, say, 66,378*l.* 11*s.* 11*d.*, with interest from that date, besides costs and damages, as suggested in Mr. Hammond's letter of the 14th March, 1863.

I have, &c.
(Signed) D. FORBES CAMPBELL.

Inclosure 1 in No. 32.

Decree of Condemnation of barque "Springbok" and Cargo, by the United States' District Court for the Southern District of New York.

THE UNITED STATES' DISTRICT COURT

The United States v. *the Barque "Springbok" and Cargo.*

BETTS, D. J.—This suit having been heard by the Court upon the pleadings, proof, and allegations of the parties, and evidence legally invoked therein from other cases; and the premises being fully considered, and it being found by the Court

therefrom that the said vessel, at the time of her capture at sea, was knowingly laden, in whole or in part, with articles contraband of war, with intent to deliver such articles to the aid and use of the enemy; that the true destination of the said ship and cargo was not to Nassau, a neutral port, and for trade and commerce, but to some part lawfully blockaded by the forces of the United States, and with intent to violate such blockade.

And further, that the papers of said vessel were simulated and false.

Wherefore the condemnation and forfeiture of the vessel and cargo is declared.

Ordered that a decree be entered accordingly.

Inclosure 2 in No. 32.

Opinion of the Supreme Court of the United States in the case of the barque "Springbok."

Supreme Court of the United States, No. 60.—December Term, 1866.

The barque "Springbok," &c., Thos. May, *et. al.*, Claimants, and Isaac, Campbell, and Co., Claimants of the Cargo, Appellants, *v.* the United States.

Appeal from the District Court of the United States for the Southern District of New York.

MR. CHIEF JUSTICE CHASE delivered the opinion of the Court.

This Cause comes before us by appeal from the District Court of the United States for the Southern District of New York.

We have considered the case with much care, not only upon the ship's papers and the preparatory proofs, but upon the documents invoked on the hearing in the District Court from the two Causes "The United States *v.* the steamer 'Gertrude,'" and "The United States *v.* the schooner 'Stephen Hart,'" then pending in that Court.

The invocatiou of these documents appears to have been made at the original hearing, and we cannot say that this was strictly regular. It would have been more in accordance with the rules of proceeding in prize cases if the Cause had been first fully heard on the ship's documents and the preparatory proofs, and if the innovation had been allowed, especially to the captors, only in case of the disclosure of suspicious circumstances on that hearing. But there was no such irregularity as was inconsistent with the lawful exercise of the discretion of the Court, and none which would justify us in reversing the decree below because of the allowance of the invocation, or in refusing to look at the documents invoked, and now part of the record, especially should we not be justified in such refusal after being made aware by the record that the steam-ship "Gertrude" was so manifestly good prize that no claim was ever interposed for her or her cargo, and after having at the last condemned the "Stephen Hart" and her cargo by our own decree. We have, therefore, looked into all the evidence, and will now dispose of the case.

We have already held, in the case of the "Bermuda," where goods destined ultimately for a belligerent port are being conveyed between two neutral ports by a neutral ship, under a charter made in good faith for that voyage, and without any fraudulent connection on the part of her owners with the ulterior destination of the goods, that the ship, though liable to seizure in order to the confiscation of the goods, is not liable to condemnation as prize.

We think that the "Springbok" fairly comes within this rule. Her papers were regular, and they all showed that the voyage on which she was captured was from London to Nassau, both neutral ports within the definitions of neutrality furnished by the international law; the papers, too, were all genuine, and there was no concealment of any of them, and no spoliation.

Her owners were neutrals, and do not appear to have had any interest in the cargo, and there is no sufficient proof that they had any knowledge of its alleged unlawful destination.

It is true that her shipping articles engaged the crew for the voyage, not only from London to Nassau, but also from thence, if required, to any other port of the West India Islands, American States, British North America, and other named countries, and finally to a port in the United Kingdom; and it is also true that this engagement would include, should the master undertake it, a continuance of the voyage for the conveyance of the cargo from Nassau to a blockaded port, but there is no proof that there was any

engagement for such continuance of the voyage. On the contrary, the charter-party, which has the face at least of an honest paper, stipulated for the delivery of the cargo at Nassau, where, so far as is shown by that document, the connection of the "Springbok" with it was to end. The preparatory examinations do not contradict, but rather sustain, the papers.

The testimony of the master was that the vessel was destined to and for Nassau to deliver her cargo and return to the United Kingdom, and that her papers were entirely true and fair; and his testimony in this regard is corroborated by that of the other witnesses.

It is said, however, that the master, upon his examination, declared himself to have been ignorant of the real ownership of the cargo, and that this indicates unlawful intent; but it must be remembered that the master of the "Springbok" had a clear right to convey neutral goods of all descriptions, including contraband, from London to Nassau, subject to the belligerent right of seizure, in order to confiscation of contraband if found on board, and proved to be in transit to the hostile belligerent.

On the hypothesis, therefore, that the cargo was to be actually delivered at Nassau, without an ulterior destination known to and promoted by the master or owners in bad faith, we cannot say that the master's ignorance of its ownership is an important circumstance in the case.

There is more weight in the argument for condemnation derived from the misrepresentation of the master concerning his knowledge of the cause of seizure. The master testified that he did not know, when examined, on what pretence the capture was made; while the mate and steward deposed that they understood that the vessel was captured under the supposition that the cargo was contraband, and the boatswain testified that it was because the bills of lading did not show the contents of some of the cases. The master must have known as much about the cause of capture as either of the witnesses, and his misrepresentation of the truth in this instance brings his statements concerning the real destination of the ship, and the intention to deliver her cargo at Nassau, into some discredit.

Frankness and truth are especially required of the officers of captured vessels when examined in preparations for the first hearing in prize. And the clearest good faith may very reasonably be required of those engaged in alleged neutral commerce with a port constantly and notoriously used as a port of call and transhipment by persons engaged in a systematic violation of blockade, and in the conveyance of contraband of war.

That Nassau was such a port is not only known from evidence before the Prize Courts, but from the official correspondence between the English and American Governments and the fact was distinctly stated by Earl Russell, then Foreign Secretary in the British Ministry in an answer dated the 5th July, 1862, to a communication from the ship-owners of Liverpool.*

If, therefore, the case of the claimants of the ship depended wholly upon the testimony of the master, we should find it difficult to resist the argument for condemnation. But it does not depend wholly or mainly on that statement. The fairness of the papers, the apparent good faith of the stipulations of the charter-party in favour of the owners, and the testimony of the other witnesses restrain us from harsh inferences against the owners of the vessel, who seem to be in no way compromised with the cargo except through the misrepresentations of the master, aud are not shown to have been connected with any former violation of neutral obligations.

In consideration of the master's misrepresentation, however, and of the circumstance that he signed bills of lading which did not state truly and fully the nature of the goods contained in the bales and cases mentioned in them, we shall, while directing restoration of the ship, allow no costs or damages to the claimants.

The case of the cargo is quite different from that of the ship.

The cargo was shipped at London in November and December 1862, in part by Moses Brothers, and the remainder by Spyer and Haywood.

The bills of lading—three in number—show no interest in any other person.

The charter-party was made by the master with one Begbie, and stipulated that the ship should take on board a cargo of lawful merchandize goods, and deliver the same at Nassau to the charterer's agent at that port.

On completion of the loading on the 8th December, Spyer and Haywood, subscribing themselves as agents for the charterers, addressed a note to the master directing him to proceed at once to Nassau, and, on arrival, report himself to B. W. Hart there, who

* July 19, 1862. Lawrence's "Wheaton," 719.

would give him orders as to the delivery of the cargo, and any further information he might require.

The bills of lading disclosed the contents of 619, but concealed the contents of 1,388, of the 2,007 packages which made up the cargo. Like those in the "Bermuda" case, they named no consignee, but required the cargo to be delivered to order or assigns.

The manifest of the cargo, also, like that in the "Bermuda" case, mentioned no consignee, but described the cargo as deliverable to order. Unlike those bills and that manifest, however, these concealed the names of the real owners, as well as the contents of more than two-thirds of the packages.

Why were the contents of the packages concealed? The owners knew that they were going to a port in the trade with which the utmost candour of statement might be reasonably required.

The adventure was undertaken several months after the publication of the answer of Earl Russell to the Liverpool ship-owners already mentioned. In that answer, the British Foreign Secretary had spoken of the allegations by the American Government, that ships had been sent from England to America with fixed purpose to run the blockade, and that arms and ammunition had thus been conveyed to the Southern States, to aid them in the war; and he had confessed his inability either to deny the allegations or to prosecute the offenders to conviction; and he had then distinctly informed the Liverpool memorialists that he could not be surprised that the cruisers of the United States should watch with vigilance a port which was said to be the great entrepôt of this commerce.

For the concealment of the character of a cargo shipped for that entrepôt after such a warning, no honest reason can be assigned. The true reason must be found in the desire of the owner to hide from the scrutiny of the American cruisers the contraband character of a considerable portion of the contents of those packages.

And why were the names of those owners concealed? Can any honest reason be given for that? None has been suggested. But the real motive of concealment appears at once when we learn from the claim that Isaac, Campbell, and Co. and Begbie were the owners of the cargo of the "Springbok," and, from the papers invoked, that Begbie was the owner of the steam-ship "Gertrude," laden in Nassau, in April 1863, with a cargo corresponding in several respects with that now claimed by him and his associates, and dispatched on a pretended voyage to St. John's, New Brunswick, but captured for unneutral conduct, and abandoned to condemnation without even the interposition of a claim in the Prize Court; and when we learn further from the same papers that Isaac, Campbell, and Co., were the sole owners of the cargo of the "Stephen Hart," consisting almost wholly of arms and munition of war, and sent on a pretended destination to Cardenas, but with a real one for the States in rebellion, clearly the true motive of this concealment must have been the apprehension of the claimants that the disclosure of their names as owners would lead to the seizure of the ship in order to the condemnation of the cargo.

We are next to ascertain the real destination of the cargo, for these concealments do not of themselves warrant condemnation.

If the real intention of the owners was that the cargo should be landed at Nassau and incorporated by real sale into the common stock of the island, it must be restored notwithstanding this misconduct. What then was their real intention? That some other destination than Nassau was intended may be inferred from the fact that the consignment shown by the bills of lading and the manifest was to order or assigns. Under the circumstances of this trade already mentioned, such a consignment must be taken as a negation that any sale had been made to any one at Nassau.

It must also be taken as a negation that any such sale was intended to be made there, for had such sale been intended, it is most likely that the goods would have been consigned for that purpose to some established house named in the bills of lading.

This inference is strengthened by the letter of Spyer and Haywood to the master when about to sail from London. That letter directs him to report to B. W. Hart, the Agent of the charterers at Nassau, and receive his instructions as to the delivery of the cargo.

The property in it was to remain unchanged upon delivery. The Agent was to receive it, and execute the instructions of his principals.

What these instructions were may be collected, in part, from the character of the cargo.

A part of it, small in comparison with the whole, consisted of arms and munitions

of war contraband within the narrowest definition. Another, and somewhat larger portion, consisted of articles useful and necessary in war, and therefore contraband within the constructions of the American and English Prize Courts. These portions being contraband, the residue of the cargo belonging to the same owners must share their fate.

The "Immanuel," 2nd Chr. Robn. 196 Carrington, United States' merchants, Jno. Co., 8 Peters, 495.

But we do not now refer to the character of the cargo, for the purpose of determining whether it was liable to condemnation as contraband, but for the purpose of ascertaining its real destination; for we repeat again, contraband or not, it could not be condemned if really destined for Nassau, and not beyond, and, contraband or not, it must be condemned if destined to any rebel port, for all rebel ports were under blockade.

Looking at the cargo with this view, we find that a part of it was specially fitted for use in the rebel military service, and a larger part, though not so specially fitted, was yet well adapted to such use. Under the first head we include the sixteen dozen swords and the ten dozen rifle bayonets, and the 45,000 navy buttons, and the 150,000 army buttons; and, under the latter, the seven bales of army cloth and the twenty bales of army blankets, and other similar goods. We cannot look at such a cargo as this and doubt that a considerable portion of it was going to the rebel States, where alone it could be used, nor can we doubt that the whole cargo had one destination.

Now, if this cargo was not to be carried to its ultimate destination by the "Springbok" (and the proof does not warrant us in saying that it was), the plan must have been to send it forward by transhipment, and we think it evident that such was the purpose. We have already referred to the bills of lading, the manifest, and the letter of Spyer and Haywood as indicating the intention; and the same inference must be drawn from the disclosures by the invocation that Isaac Campbell and Co. had before supplied military goods to the rebel authorities by indirect shipments, and that Begbie was owner of the "Gertrude" and engaged in the business of running the blockade.

If these circumstances were insufficient grounds for a satisfactory conclusion another might be found in the presence of the "Gertrude" in the harbour of Nassau, with undenied intent to run the blockade, about the time when the arrival of the "Springbok" was expected there. It seems to us extremely probable that she had been sent to Nassau to await the arrival of the "Springbok" and to convey her cargo to a belligerent and blockaded port, and that she did not so convey it only because the voyage was intercepted by the capture.

All these condemnatory circumstances must be taken in connection with the fraudulent concealment attempted in the bills of lading, and the manifest, and with the very remarkable fact that not only has no application been made by the claimants for leave to take further proof in order to furnish some explanation of these circumstances, but that no claim sworn to personally by either of the claimants has ever been filed.

Upon the whole case we cannot doubt that the cargo was originally shipped with intent to violate the blockade; that the owners of the cargo intended that it should be transhipped at Nassau into some vessel more likely to succeed in reaching safely a blockaded port than the "Springbok"; that the voyage from London to the blockaded port was, as to the cargo, both in law and in the intent of the parties, one voyage; and that the liability to condemnation, if captured during any part of the voyage, attached to the cargo from the time of sailing.

The Decree of the District Court must, therefore, be reversed as to the ship, but without costs or damages to the claimants, and must be affirmed as to the cargo, and the cause must be remanded for further proceedings in conformity with this opinion.

I, D. W. Middleton, Clerk of the Supreme Court of the United States, do hereby certify that the foregoing thirteen manuscript pages contain a true copy of the opinion of the said Supreme Court in the case of the barque "Springbok," &c., Thomas May *et al.*, claimants, and Isaac Campbell and Company *et al.*, claimants of the cargo, Appellants *v.* the United States No. 60 delivered at December Term, 1866, as the same remains upon the records of the said Court.

In testimony whereof I hereunto subscribe my name and affix the seal of the said Supreme Court, in the city of Washington, this 15th day of March, A.D. 1867.

(Signed) D. W. MIDDLETON,
Clerk of the Supreme Court of the United States.

Inclosure 3 in No. 32.

MANIFEST of Cargo on board the British-built barque "Springbok," May, master, of 198 tons, 11 men; London to Nassau.

Shippers.	Marks.	Numbers.		Consignees.
Spyer and Haywood.	[A]	214 @ 216	3 cases	Order A.
		243 @ 244	2 „	
		544 @ 548	5 bales	
		550 @ 552	2 „	
		555 @ 565	11 „	
		779	1 „	
		976 @ 984	9 cases	
		985 @ 987	3 bales	
		989	1 case	
		994 @ 998	5 „	
		1221 @ 1234	14 „	
		1247	1 „	
		1264 @ 1265	2 „	
		1267 @ 1269	3 „	
		1299 @ 1440	142 „	
		1351 @ 1353	3 „	
		1400 @ 1406	7 bales	
		1406 @ 1408	3 cases	
	□ I C	..	246 boxes	
	„ I X	..	360 „	
	B. W. Hart.	..	1 case	
	B / L	1 @ 50	50 bales	
	— „ — / 1 @ 50	..	1 case	
	[B]	..	1 „	
	47 @ 267	..	1 „	
	„ / 268 @ 533	..	458 „	
	[B]	..	4 bales	
	[A]	264	1 bale	
		1266	1 case	
Moses Brothers.	M	1 @ 150	150 chests	Order A.
	M	1 @ 150	150 half-chests	
	S / N F	256 @ 395 / 504 @ 583	220 bags	
	T G / B	91 @ 94	4 cases	
	N / D W B	20 @ 21	2 „	
	J H	14 @ 62	19 bags	
	[D N]	46 @ 50 / 52 / 54 @ 57	10 „	
	W C S	1 @ 60	60 „	
	B P / P P P	2 @ 3	2 cases	
	[M B]	1 @ 10	10 kegs	
		11 @ 25	15 casks	
		26 @ 42	17 „	
	—„— C	43 @ 44	2 cases	
	—„— A	45 @ 48	4 „	
	Z X S	3	1 „	
Total ..	..	..	2,000 packages	

(Signed) SPYER AND HAYWOOD, *Brokers.*

London, December 8, 1862.

(Signed) CHARLES EDWARDS, *Notary.*

Shipped in good order and well conditioned by Moses Brothers, on board the good ship "Springbok," whereof May is master, now lying in this port of
and bound for Nassau, N.P., to say, 666 packages merchandize, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the aforesaid port of Nassau, N.P. (the dangers of the seas only excepted) unto order or to , assigns, he or they paying freight for the said goods as per charter party.

In witness whereof the master or purser of the said vessel hath affirmed to three bills of lading, all of this tenour and date; one of which being accomplished the others stand void.

Dated in London the 6th day of December, 1862.

Weight and contents unknown.

(Captain's copy.)

(Indorsed Moses Brothers).

M 1 to 150	150 chests tea.	W C S / B P 1 @ 60	60 bags pepper.
M 1 to 150	150 half-chests tea.	P P P 2 @ 3	2 cases.
S M 256, 395, 504, 583	220 bags coffee.	[MB] 1 @ 10	10 kegs.
		11 @ 25	15 casks.
T G / B 91 @ 94	4 cases ginger.	26 @ 42	17 „
		„ C 43 @ 44	2 „
DWB / N 20 @ 21	2 cases.	„ A 45 @ 48	4 „
		Z × S 3	1 case.
T H 44 @ 62	19 bags pimento.		666 packages.
[DN] 46 @ 50, 52, 54 @ 57	10 bags cloves		

Shipped in good order and well conditioned by Spyer and Haywood, on board the good ship called the "Springbok," whereof May is master, now lying in this port of , and bound for Nassau, N.P., to say, two packages merchandize, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the aforesaid port of Nassau, N.P. (the dangers of the seas only excepted), unto order , or to , assigns, he or they paying freight for the said goods as per charter-party.

In witness whereof, the master or purser of the said vessel hath affirmed to three bills of lading, all of this tenour and date; one of which being accomplished, the other to stand void.

Dated in London, the 8th day of December, 1862.

Weight and contents unknown.

(Captain's copy.)

[A] 264 1 bale.
1,266 1 case.

Shipped in good order and well conditioned, by Spyer and Haywood as agents, on board the good ship called the "Springbok," whereof May is master, now lying in this port of , and bound for Nassau, N.P., to say, 1,339 packages merchandize, as per indorsement, being marked and numbered as in the margin, and are to be delivered in the like good order and condition at the aforesaid port of Nassau, N.P. (the dangers of the seas only excepted), unto order, , or to assigns, he or they paying freight for the said goods as per charter-party.

In witness whereof, the master or purser of the said vessel hath affirmed to three bills of lading, all of this tenour and date, one of which being accomplished the others to stand void.

Dated in London, the day of , 18 .

Weight and contents unknown.

(Captain's copy.)

(Indorsed,

[A]	214 @ 216	3 cases.	
	243 @ 244	2 „	
	544 @ 548	5 bales.	
	550 @ 552	2 „	
	555 @ 565	11 „	
	779	1 bale.	
	976 @ 984	9 bales.	
	985 @ 987	3 „	
	989	1 bale.	
	994 @ 998	5 cases.	
	1,221 @ 1,234	14 „	
	1,247	1 case.	
	1,264 @ 1,265	2 cases.	
	1,267 @ 1,269	3 „	
	1,299 @ 1,440	142 „	
	1,351 @ 1,353	3 cases.	
	1,400 @ 1,406	7 bales.	
	1,406 @ 1,408	3 cases.	
[]	I C ..	246 boxes.	
„	I X ..	360 „	
B.	W. Hart ..	1 trunk.	
B L	1 @ 50 ..	0 bales.	
„	1 @ 50 ..	1 case.	
[B]	..	1 „	
47 @ 267 „	..	1 „	
	268 @ 533 ..	458 cases.	
[B]	..	4 bales.	

We, the Undersigned, hereby certify that we have carefully examined the annexed manifest and three bills of lading of the British barque "Springbok," and find them to be made out in conformity with mercantile and shipping usage, and such as a vessel proceeding from London to Nassau would properly and usually carry. We further certify that the documents aforesaid contain all customary particulars, and are in every respect regular and complete.

London, November 12, 1867.

(Signed) TATHAM AND Co., 35, *Pudding Lane, London, Shipbrokers.*
W. AND J. SMITH, 15, *Billiter Street, London, Shipbrokers.*
GEORGE S. BONNER, 27, *Mincing Lane, London, Shipbroker.*

We, the Undersigned, hereby certify that we have carefully examined the annexed manifest and three bills of lading of the British barque "Springbok," and find them to be made out in conformity with mercantile and shipping usage. We further certify that the documents aforesaid contain all customary particulars, and are in every respect regular and complete.

London, November 12, 1867.

(Signed) SMITH, SUNDIUS, AND Co., 17, *Gracechurch Street, Sworn Shipbrokers.*
LLOYD, LOWE, AND Co., 7, *East India Avenue, Sworn Shipbrokers.*
GRINNELL AND Co., 7, *Leadenhall Street, Sworn Shipbrokers.*

Inclosure 4 in No. 32.

Declaration of Benjamin Woolley Hart.

I, BENJAMIN WOOLLEY HART, of No. 8, Longton Grove, Sydenham, in the county of Kent, merchant, solemnly and sincerely declare as follows, that is to say:

1. From the year 1862 until the year 1865, I was a merchant carrying on business at Nassau, New Providence, in the British Colony of the Bahamas, and during that time large quantities of goods were consigned to me for sale there, and I sold the same on commission.

2. In the years 1862 and 1863 I received several extensive consignments of goods from Messrs. Isaac, Campbell and Co., and from Thomas Stirling Begbie, of London. The general instructions received by me from those parties with reference to such consignments being to sell the goods, the subject of such consignments, at the current prices of the day at Nassau immediately on their arrival, and to remit the net proceeds to them.

3. In the month of November 1862, the said Thomas Stirling Begbie and Isaac, Campbell and Co., having determined, as I have been informed, to send out to Nassau for sale there, a large consignment of merchandize such as was then in demand at Nassau, shipped a portion of said merchandize on board the steamer "Justitia" for Bermuda, which vessel sailed from London on the 11th of the said month of November, and another portion on board the sailing barque "Aries," which vessel sailed from Gravesend for Nassau on the 28th of the said month of November, and the remaining

portion of the said merchandize they shipped on board the sailing barque "Springbok" for Nassau, which vessel sailed from London on or about the 9th day of December, 1862.

4. In January 1863, I received a letter dated the 19th December, 1862, inclosing invoices of shipments on board the "Aries," "Springbok," and "Justitia," and by that same letter I received duplicate bills of lading with reference to such shipments. The goods were consigned to me by the shippers for sale in the Nassau market in the regular way of business. The bills of lading and invoices above-mentioned were received by me through the post-office at Nassau, in due course, in the letter above referred to which came to Nassau by mail by way of New York. The following is a true and correct extract from the letter of the 19th December, 1862, above referred to:—

"B. W. Hart, Esq., Nassau.

"Dear Sir, "71, *Jermyn Street, London, December* 19, 1862.

"By this mail we send you duplicates of invoices of shipments on joint account of ourselves, T. Stirling Begbie, Esq., and Moss Moses Brothers, per 'Aries,' 'Springbok' and 'Justitia;' duplicate bills of lading are also inclosed. We hope these goods will arrive to a good market, realize good prices, and that you will be able to remit to us, without loss of time, money being much wanted here at present."

5. On the 16th January, 1863, I wrote Messrs. Isaac, Campbell, and Co. a letter in answer to their letter of the 19th December, 1862, and the following is a true and correct extract from such letter:—

"Messrs. S. Isaac, Campbell, and Co., London.

"Dear Sirs, "*Nassau, January* 16, 1863.

"Your esteemed favour, p. December mail, with invoices, p. 'Aries,' 'Springbok,' and "Justitia,' and other inclosures, duly to hand, and their contents duly noted."

6. The portion of the aforesaid merchandize conveyed to Bermuda, per steamer "Justitia," were there transhipped into the schooner "Evelina," which conveyed the said merchandize to me at Nassau in the month of January 1863. I effected sales of such goods in the Nassau market in the usual way, and remitted the proceeds to the shippers.

7. The marks and numbers on many of the packages forming the cargo, received by me at Nassau by the "Evelina," showed clearly that the packages formed part of the parcel of goods which the said Thomas Stirling Begbie and Isaac, Campbell, and Co. had determined as aforesaid to send out to Nassau for sale, because where the marks and numbers of the cargo of the "Springbok" did not run in consecutive order, the marks and numbers of the cargo shipped on board the "Justitia," and brought to Nassau by the schooner "Evelina," were found to be such as with those of the "Springbok" completed the running numbers.

8. The "Aries" sailed from Gravesend on the 28th November, 1862, as appears from "Lloyd's List" of the 29th November, 1862, and she arrived at Nassau on or about the 28th day of January, 1863, as appears from "Lloyd's List" of the 27th February, 1863, and upon her arrival I commenced to dispose of her cargo, and effected sales in conformity with the aforesaid instructions.

9. In anticipation of the arrival of the goods by the barque "Springbok" I prepared an advertisement for publication in the local newspapers at Nassau, containing a summary of the cargo of the "Springbok," which was then daily expected at Nassau. The draft of the intended advertisement so prepared by me was in the words and figures following:—"The undermentioned goods, viz., 50 bales madder shirting prints, 72 cases S fine ginghams, 88 bales madder printed handkerchiefs, 261 bales printed jaconets, muslins, and cambrics, 7 bales Madras handkerchiefs, 19 bales blankets, 9 cases felt hats, 14 cases Morley's glace threads assorted, 18 cases Morley's hosiery, 84 cases men and women's boots and shoes, 8 bales black and coloured cloths, 150 chests Congou tea, 150 chests Young Hyson, 220 bags Rio coffee, 60 bags black pepper, 600 boxes tin plates, also sundry packages of cloves, nutmegs, Epsom salts, nitrate of potash, opium, oil of peppermint, stationery, pins, needles, shirts, silk handkerchiefs, hair brushes, collars, 12 bayonets, and 12 British army regulation

swords, the cargo of the brig "Springbok," from London, are offered for sale by B. W. Hart."

I should have caused the said advertisement to have been published in the newspapers before mentioned, in the regular course of business, but for the news which I received of the capture of the "Springbok," which rendered the publication of the said advertisement useless.

10. Had the cargo of the "Springbok" arrived at Nassau in the usual and regular course of trade I should, in conformity with the instructions received from the shippers contained in the letter of the 19th December, 1862, have sold the whole of the cargo at Nassau, and had in fact, in anticipation of the arrival of the barque "Springbok," conditionally sold a portion of the said cargo deliverable on arrival. A portion of the cargo so sold by me consisted of two boxes marked [A], and numbered respectively 1264 and 1265, and containing together 436 gross of brass buttons stamped with initial letters and devices, and these were so sold by me to one J. A. Weston, who, on arrival and delivery thereof to him, would have paid me in cash for the same in the like way that he had done with reference to another box of similar brass buttons, ex "Aries," which I sold to the said J. A. Weston at Nassau, for cash, on the 29th January, 1863, and my books contain the entries of such sale and payment therefor.

11. In May 1863, in consequence of the capture of the "Springbok" and her cargo, I caused an appraisement and valuation of the cargo to be made at Nassau by Mr. George Chambers and Mr. Oliver Hewitt. Both those gentlemen were merchants carrying on an extensive business at Nassau, and well qualified to act as valuers of the said cargo, and after examination by them of the invoices and careful consideration and calculation as to the nature of the goods and the state of the market at Nassau, they valued the cargo according to the market prices current at Nassau in the beginning of February 1863, at 66,378*l.* 11*s.* 11*d.* The date of February 1863, at which Mr. George Chambers and Mr. Oliver Hewitt appraised and valued the cargo was the date at which the "Springbok" would have arrived at Nassau had she not been previously captured, and the valuers certify that they had based their valuation upon the market prices of articles of a similar description in the market at Nassau at the time of the capture of the "Springbok." Henry Adderly, one of the leading merchants at Nassau, and John S George, President of the Chamber of Commerce at Nassau, have certified that Mr. George Chambers and Mr. Oliver Hewitt were well qualified to make the appraisement and valuation above mentioned, and that such appraisement is deserving of all due faith and credit; and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of his late Majesty King William the IVth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of Voluntary and Extrajudicial Oaths and Affidavits, and to make other Provisions for the abolition of Unnecessary Oaths.'"

(Signed) B. WOOLLEY HART.

Subscribed and declared at the Mansion House, in the City of London, this 5th day of February, 1868.

Before me,

(Signed) W. F. ALLEN *Lord Mayor.*

Inclosure 5 in No. 32.

Declaration of Thomas Stirling Begbie.

I, THOMAS STIRLING BEGBIE, of 4, Mansion House Place, in the City of London, merchant and ship-owner, hereby declare that in the year 1863 I was the sole owner of the British screw-steamer "Gertrude," of 278 tons gross tonnage, or 191 net register tonnage, and that said steamer was registered in my name at the Custom House in London, on the 10th January, 1863, under the official number 45,767, and that I appointed one James Raison master of said steamer; and I further declare, that at the date of the 3rd February, 1863, the said steamer was lying moored off

the quay at Queenstown, Ireland, said steamer having arrived there on the 31st January preceding, as appears from the said steamer's log in my possession, and from "Lloyd's Lists" of the 2nd and 7th February, 1863: and I make this solemn declaration, conscientiously believing the same to be true, and by virtue of the provisions of an Act made and passed in the sixth year of the reign of his late Majesty King William the IVth, intituled, "An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more entire Suppression of Voluntary and Extrajudicial Oaths and Affidavits, and to make other provisions for the abolition of Unnecessary Oaths.'"

(Signed) THOS. STIRLING BEGBIE.

Subscribed and declared at the Mansion House, London, this 5th day of February, 1868.

Before me,

(Signed) W. F. ALLEN, *Lord Mayor.*

Inclosure 6 in No. 32.

Opinion on the Condemnation of the Cargo of the British Barque "Springbok," by Mr. George Mellish, Q.C., and Mr. W. Vernon Harcourt, Q.C.

WE have considered the Judgment of the District Court and of the Supreme Court in the United States in the case of the "Springbok."

We assume, for the purpose of this opinion, that the law is correctly laid down in the Judgment of the Supreme Court, and that if the cargo was shipped in England, with the original intention of being transhipped at Nassau for the purpose of being run through the blockade, the sentence of condemnation is right. If, on the other hand, the cargo was shipped, as the claimants contend, deliverable to the order of an agent in Nassau, to be there sold in the open market to *bonâ fide* purchasers, the cargo could not be condemned, even though it was of a contraband character, and though the purchasers in Nassau might have bought with the distinct intention of running the goods through the blockade.

In this view the only question is the evidence in point of fact that the cargo was originally destined to be forwarded by a continuous voyage to a blockaded port, including, of course, transhipment in the definition of a continuous voyage.

The first observation we shall make is:—

First. That in a case where the ship itself is really and *bonâ fide* destined for a neutral port (and that is here admitted to be the case), the onus of the proof lies on the captors, and they ought to give clear and conclusive evidence to justify the inference that the cargo itself has a different destination.

The Supreme Court, in their Judgment, very justly state that the real question on which the condemnation must turn is the original destination of the cargo. But when we come to examine the grounds upon which the Court founds a conclusion adverse to the cargo, we find that these grounds are many of them inaccurate in fact, and erroneous in principle.

The first ground taken by the Court as justifying the conclusion that Nassau was not the real destination of the cargo is derived from the form of the bills of lading and the manifest. The Court argue that because the bills of lading did not disclose the contents of the packages, and because no consignee was named, but the cargo was delivered to order and assigns, these circumstances showed an attempt at "fraudulent concealment" of the destination of the cargo. We have before us a statement of some of the principal sworn brokers of London, which accords with our own experience, that the bills of lading are in the usual and regular form of consignments to an agent for sale in such a port as Nassau. It is probable that the Court may have been misled by what we believe to be the fact, viz., that in shipments to the American ports greater particularity of specification is required in order to comply with the requirements of the American Custom-house. But as these documents are perfectly regular, and in the form usually adopted in the course of trade to an English port, these is nothing in them which could raise an inference of "fraudulent concealment."

The next point taken by the Court is, that a sale at Nassau could not have been intended, because the bills of lading made the cargo deliverable to order. It is quite true that such a form of the bills of lading was, as the Court says, "a negation that a sale had been made, to any one, at Nassau." But that was not the case set up by the claimants. Their case was, that the cargo was sent to an agent at Nassau for sale there, and for such an object the form of the bills of lading was perfectly regular and appropriate.

On these two main points, therefore, the Judgment seems to us to have proceeded on a misapprehension of the facts.

The next ground on which the Court rely is, the character of the cargo itself. Not, as the Court justly say, that the cargo, if really destined for Nassau, could be condemned as contraband; but rather that the fact of its being contraband was a good ground of inference that it was not destined for Nassau. This point, which is much insisted on by the Court, appears to us to be founded on an entire misapprehension. The fact that the goods, or some of them, were contraband, so far from furnishing an argument that they were not destined for sale at Nassau, is, on the contrary, as far as it goes, a proof the other way. Nassau was a place which had a very insignificant home trade of its own, but which had developed a very great trade as an entrepôt of contraband goods, which adventurers in blockade-running purchased there for the purposes of their business. The very things which a person sending goods for the Nassau market would be the most likely to consign there, would be goods fitted for blockade-running. But such a trade on the part of the person who sent them to Nassau for sale there, would be a perfectly lawful trade. If A sent a cargo of muskets to Nassau intending to sell them there, they could not be condemned because he thought B was was likely to buy them there in order to run them through the blockade. The fact, therefore, of the nature of the cargo does not seem to us to justify the material inference which the Court draw from it, viz., that the cargo could not have been intended for sale at Nassau.

The last point taken by the Court, in order to prove the material issue, viz., whether a *bonâ fide* sale was or was not intended at Nassau, is equally founded on a remarkable misapprehension of fact. The Court say: "If these circumstances were insufficient grounds for a satisfactory conclusion, another might be found in the presence of the 'Gertrude' in the harbour of Nassau, with undisguised intent to run the blockade about the time when the arrival of the 'Springbok' was expected. It seems extremely probable that she had been sent to Nassau to await the arrival of the 'Springbok,' and to convey her cargo to a belligerent and blockaded port." Now it is a remarkable fact in the case that this supposed circumstance, by which the Court seek to eke out what appears to have been felt a somewhat weak chain of inference, is itself a complete mistake.

The "Gertrude" was not at Nassau awaiting the arrival of the "Springbok." On the contrary, we are informed that it appears by "Lloyds' List" that at the time when the "Springbok" was captured close to Nassau, the "Gertrude" was lying at Queenstown, in Ireland. The inference of intended transhipment drawn from the assumed presence of the "Gertrude" at Nassau, therefore, entirely falls to the ground.

It seems to us that these arguments relied on by the Court fail to establish the point on which alone the judgment of condemnation could be founded, and that the facts of the case are at least equally consistent with the hypothesis of an intended sale at Nassau, which, considering the undoubted neutral destination of the vessel, we think it lay with the captors to rebut.

But the statement of Mr. B. W. Hart, which has been laid before us, makes the case much stronger in favour of the claimants. The facts there set forth as to the previous dealings with the cargo of the "Aries" and the subsequent dealing with that of the "Evelina" show the course of trade with respect to sales of such cargoes at Nassau at that time. And his explicit statement as to the cargo of the "Springbok" and his instructions for its sale are entirely consistent with the facts of the case as proved in evidence.

It is, no doubt, a very unfortunate circumstance for the claimants that the statement of Mr. Hart was not put in evidence in the District Court, for, had it been so, we consider that the cargo of the "Springbok" could not have been condemned. But it must be remembered that at the time the proofs were taken, the doctrine of continuous voyages had not been carried to the full extent to which it was ultimately pushed. And the claimants probably thought that when they had proved the vessel had a *bonâ fide* destination to a neutral port, the cargo was, in all events, free. The materiality of

the question of the sale at Nassau was consequently at that time, not so apparent as it afterwards became.

Looking at the whole circumstances we have no doubt that if the facts of the case had been clearly set forth and distinctly apprehended as they appear upon the papers before us, the cargo ought not to have been and would not have been condemned, and that consequently there has been in this case a miscarriage of justice.

(Signed) GEORGE MELLISH.
W. V. HARCOURT.

Temple, January 14, 1868.

Inclosure 7 in No. 32.

Memorial on behalf of the Owners and Claimants of the Cargo of the British Barque "Springbok."

THE memorialists have first to point out that the inferior District Court condemned the "Springbok" as well as her cargo, upon the grounds "that the true destination of the said ship and cargo was not to Nassau—a neutral port, and for trade and commerce —but to some port lawfully blockaded by the forces of the United States, and with intent to violate such blockade; and further, that the papers of said vessel were simulated and false." (See text of Decree of Condemnation at p. 27 of printed statement herewith.)

The Supreme Court has reversed the Decree of the District Court as to the ship, and has nevertheless affirmed it as the cargo, but upon totally different grounds from those of the original Decree of Condemnation of ship and cargo. It admits that "the true destination" was Nassau, and "the papers were all genuine." The memorialists beg leave to remind Her Majesty's Government of the fact, that the "Springbok" was put down in the "Black List" of vessels suspected of being about to leave London "laden with supplies for the insurgents;" which "Black List" was inclosed in the note addressed by Mr. Adams, the American Minister, to Earl Russell, on the 30th December, 1862. (See pp. 34 and 35 of Blue Book, "North America, No. 3 (1863): Correspondence respecting Alabama.")

Said "Black List" was transmitted by Mr. Adams to the American Government, who issued peremtory orders to their cruisers to seize all vessels on said "Black List."

"The United States' cruisers had orders to seize any British vessels whose names werere forwarded them from the Government at Washington, and that their being bound from one British port to another would not prevent the United States' officers from carrying out these orders; and further, in pursuance of these definite orders they were, when and where met with, to seize British steamers or vessels of which official information had been sent them." (See p. 1 of Blue Book, "North America, No. 5 (1863): Correspondence respecting instructions given to the Naval Officers of the United States in regard to neutral vessels and mails.")

Her Majesty's Government pronounced these instructions to be illegal, and remonstrated against their being carried out.

On the 8th August, 1862, the Honourable Mr. Seward directed the Secretary of the American navy, "to give the following instructions explicitly to the navy officers of the United States," namely, "that when a visit is made, the (neutral) vessel is not then to be seized, without a search carefully made, so far as to render it reasonable to believe that she is engaged in carrying contraband of war to the insurgents and to their ports, or otherwise violating the blockade; and if it shall appear that she is actually bound and passing from one friendly or so-called neutral port to another, and not bound or proceeding to or from a port in the possession of the insurgents, then she cannot be lawfully seized."

The "Springbok," nevertheless, was seized without any search whatever having been made, and in contravention of the foregoing explicit instructions.

It must be borne in mind that great publicity was given by the American Government, and by the American and British press to the foregoing important declaration, and that at the date of the "Springbok's" departure from London (December 1862), it was universally believed at Lloyds and by British ship-owners, merchants, and underwriters, that a neutral vessel, under Charter made, in good faith, for a voyage between

neutral ports, could not be lawfully seized, no matter of what her cargo consisted. That belief was confirmed by the decisive language held by Lords Derby, Cranworth, and Russell in the House of Lords on the 18th May, 1863.*

The Supreme Court, in its sentence, says that a part of the "Springbok's" cargo, "small in comparison with the whole, consisted of arms and munitions of war, contraband within the narrowest definition," and at p. 9 of the sentence there is an erroneous statement that there were on board "sixteen dozen swords," and "ten dozen rifle bayonets," whereas it appears from the Marshal's Report that there were only "one dozen cavalry swords, and one dozen rifle bayonets," worth together about 34*l.* 10*s.* The memorialists submit that they have good ground to complain of these misstatements of the Supreme Court, the object of which is very apparent.

As regards the manifest and the bills of lading, six leading sworn ship-brokers in the port of London have certified all these documents to be regular and complete. One of the grounds of the Supreme Court for condemnation is "concealment" of the names of the owners of the cargo and the contents of the packages, although it admits that the alleged "concealments" do not of themselves "warrant condemnation." The assumption of any "concealment" is unwarranted and unjust. It is not incumbent upon shippers, or customary for them, to specify, either in the ship's manifest or in the bills of lading the contents of the packages. The general term "merchandize" is all that international law requires, and is that usually employed. It is equally notorious that bills of lading are more frequently made out to "order" than to a person named therein.

The memorialists submit that the inclosed affidavit of Mr. B. W. Hart, the consignee of the cargo, is conclusive as to the fact that the entire cargo of the "Springbok" was intended for sale in the market of Nassau, and that the contrary conclusion arrived at by the Supreme Court rests upon nothing but groundless suspicion, misapprehension, illogical and unfair inferences, and the unjustifiable imputation to the claimants of intentions which they never had.

Having shown the condemnation of the cargo of the "Springbok" to be contrary to international law, and a miscarriage of justice, calling for the interference of Her Majesty's Government, the memorialists beg leave to add their reasons for believing that the United States' Government will, when called upon by Her Majesty's Government, direct the Supreme Court to reconsider and reverse their decision, or "make that reparation which the circumstances called for."

It is laid down by an eminent American jurist that "the responsibility for the capture and condemnation lying upon the State as a belligerent act, the State is not bound by a favourable decision of its own tribunal. It may and should, notwithstanding the decree of condemnation, make restitution or compensation on the demand of the Sovereign of the claimant, if justice or policy require it." (See Wheaton's "Elements of International Law," p. 390, of Dana's edition of 1866.) In accordance with this universally accepted doctrine, the Honourable Mr. Seward, in a note bearing date Washington, 13th August, 1862, which he addressed to the Honourable William

* "The Earl of DERBY.—It may be suspected that a large portion of a cargo proceeding to Nassau or Matamoros is intended for the Confederate States. But does the noble Earl (Earl Russell) say that on account of that suspicion an American cruiser would be justified in doing more than ascertaining what was the immediate destination of the vessel? If a vessel were proceeding *bonâ fide* from this country to Nassau, whatever might be the nature of her cargo, no American cruiser has a right to interfere with her; and no matter what may be the ultimate intention of the owners, even though it were meant that she should herself subsequently proceed from Nassau to the Confederate States, and endeavour to break the blockade, that would afford no justification of her seizure by an American cruiser previously to her entering the harbour of Nassau. I hope the noble Earl (Earl Russell) has not conceded to the American Government anything like an acknowledgment that, under the circumstances, they are justified in interfering with a vessel sailing from one neutral port to another, whatever grounds of doubt or suspicion there may be as to her future course."

"Earl RUSSELL.—The noble Earl (Earl Derby) certainly misunderstood me when he supposed I meant to say that a vessel going to Nassau, intending afterwards to make another voyage, might be captured on her way thither. What I alluded to was a case of simulated destination, that is, a vessel pretending that she is going to Nassau, when she is, in reality, bound for another port."

"Lord CRANWORTH said that the question to which the noble Earl had just referred had been raised in a celebrated case which was decided by Lord Stowell. In the course of our war with the first French Empire a ship proceeded from Lisbon, which was a neutral port, with a cargo apparently destined for China. She, however, carried a number of French officers, and she was seized in the Eastern seas on the ground that she was proceeding with them—they being, of course, contraband of war—not to China, but to some Dutch or French island. Lord Stowell, in deciding upon the case, stated that if she were going to China he had nothing to do with her; but inasmuch as he had come to the conclusion that the alleged destination was but a pretence, and that she was on her way to a French or Dutch port, he declared the seizure to be justifiable and legal. There could be no doubt that that was the law of the case, and that a neutral vessel carrying contraband of war could not be legally stopped on her way to a neutral port, whatever might be her subsequent destination."—*Hansard's Reports, May* 18, 1863.

Stuart, Her Majesty's Chargé d'Affaires, respecting the capture and condemnation of the British steamer "Adela," made the following important declaration:—

"I have the honour to state that as the prize" (the "Adela") "appears to have been taken into Key West, where proceedings against her have been set on foot, ... it is not to be doubted that justice will be done according to public law. If, however, I should be mistaken in this, and the claimants, upon appeal to the Supreme Court of the United States, to which they will have a right, should fail to obtain redress, the Government will make that reparation which the circumstances may seem to call for." (See p. 22 of "Correspondence respecting the Capture of British Vessels sailing from one British Port to another, having on board articles Contraband of War intended for the use of the Insurgents," laid before the President of the United States on the 26th January, 1863, and forming Senate Executive Document No. 27, of the 3rd Session of the 37th United States' Congress.)

In a note to the Honourable William Stuart, dated the 27th September, 1863, the honourable Mr. Seward went still farther, and said, in reference to the case of the "Adela":—

"If the principles of maritime law shall finally be decided against the claimants, due reparation therefor shall be made. The Government has no disposition to claim any unlawful belligerent rights, and will cheerfully grant to neutrals who may be injured by the operations of the United States' forces the same redress which it would expect if the positions of the parties were reversed." (See p. 26 of before cited Senate Executive Document No. 27.)

The memorialists contend that the United States' Government is bound to admit the reclamation of Her Majesty's Government in the analogous case of the "Springbok," and to make to the owners of her cargo "that reparation which the circumstances call for."

In further support of this view, the memorialists beg leave to cite the following passage in the speech of Sir Roundell Palmer in the House of Commons on the 23rd July, 1867:—

"When a belligerent right was asserted by a Government at war against neutral vessels, international law did not hold the neutral Government bound in any case, whatever might be the result, even if obtained in the most regularly constituted Prize Court. Every nation was left at the end of the proceedings at perfect liberty to judge for itself whether substantial justice had been administered to its subjects, and if it believed that substantial justice had not been administered, it was not bound to abide by the decision, even though it had been confirmed on appeal. He believed he was right in saying that when the mutual claims between this country and the United States were considered and determined, at the close either of the last or the previous war, by a Joint Commission for the purpose, the United States succeeded in obtaining compensation for some vessels condemned in a perfectly regular manner by our Prize Courts." (See Hansard's Reports, Session 1867, folio 2052, 3.)

According to strict international law, the so-called "Alabama" claims of the United States upon Great Britain need not be entertained. Yet, from considerations of policy, these claims have been entertained by Her Majesty's Government. Surely, then, the far better founded claim of the owners of the "Springbok's" cargo ought to be equally put in and pressed by Her Majesty's Government.

London, January 28, 1868.

No. 33.

Mr. Egerton to Mr. Forbes Campbell.

Sir, *Foreign Office, July* 24, 1868.

LORD STANLEY has had under his consideration, in communication with the Law Officers of the Crown, your letter of the 5th February last, in which, as agent and attorney for the owners of the cargo of the British barque "Springbok," you request that Her Majesty's Government will, on the strength of certain documents inclosed in your letter, demand compensation on their behalf from the United States' Government for the alleged unlawful seizure, sale, and condemnation of their property, and I am now directed by his Lordship to inform you that your request is not one with which Her Majesty's Government are prepared to comply.

In support of your application, you rely on the joint opinion of Mr. Mellish and Mr. Vernon Harcourt, and on declarations of witnesses, for the purpose of showing that the Supreme Court of the United States has come to an erroneous and unjust conclusion, and that in the condemnation and forfeiture of the cargo of the "Springbok" there has been a miscarriage of justice, while Mr. T. S. Begbie and Messrs. Saul Isaac, Campbell, and Co. allege, in the Memorial inclosed in your letter, that the Judgment of the Supreme Court rests upon nothing but groundless suspicion, misapprehension, illogical and unfair inferences, and the unjustifiable imputation to the claimants of intentions which they never had.

The memorialists are perhaps justified in insisting that there may be circumstances under which a State may, notwithstanding a decree of condemnation by its own tribunals, make restitution or compensation on the demand of the Sovereign of a claimant, but it must be remembered that such a demand could only be justified after a regular sentence of condemnation pronounced upon due inquiry by a competent Prize Court, when the adjudication is plainly against right, and where manifest wrong has been done by such condemnation of the property.*

In a case like the present, therefore, it is necessary that the claimants should prove satisfactorily not merely that there are errors in some of the premises or in some of the conclusions upon which the Judgment is founded, but that there has been a failure of justice upon the whole case presented to the Supreme Court, and on which that Court decided, or that new facts and circumstances brought to notice since the Judgment was pronounced, which for good reasons were not submitted to the Prize Court, show that the sentence is contrary to the justice of the case.

In the Judgment of the Supreme Court, after commenting upon certain concealments on the part of the claimants, it is said:—

"We are next to ascertain the real destination of the cargo, for these concealments do not of themselves warrant condemnation. If the real intention of the owners was that the cargo should be landed at Nassau, and incorporated by real sale into the common stock of the island, it must be restored notwithstanding this misconduct. What, then, was that real intention?"

And the Court comes to the conclusion that the cargo shipped in England was destined to be transhipped at Nassau for the purpose of being run through the blockade, and not for *bonâ fide* importation into Nassau.

The learned counsel, whose opinion you forwarded in your letter, say: "We assume that the law is correctly laid down in the Judgment of the Supreme Court; and that if the cargo was shipped in England with the original intention of being transhipped at Nassau for the purpose of being run through the blockade, the sentence of condemnation is right. If, on the other hand, the cargo was shipped as the claimants contend, deliverable to the order of an agent in Nassau, to be there sold in the open market to *bonâ fide* purchasers, the cargo could not be condemned even though it was of a contraband character, and though the purchasers in Nassau might have bought with the distinct intention of running the goods through the blockade."

They find fault with the Judgment because one ground taken up by the Court as justifying the conclusion that Nassau was not the real destination of the cargo, is derived from the form of the bills of lading and manifest, the bills of lading not disclosing the contents of the packages, and no consignee being named, but the cargo being deliverable to "order or assigns," circumstances which the Court alleges show concealment of the real destination of the cargo. The counsel proceed to state: "We have before us a statement of some of the principal sworn brokers of London, that the bills of lading are in the usual and regular form of consignment to an agent for sale at such a port as Nassau."

No doubt the form is usual in time of peace, but the circumstance to which the Court was really referring is overlooked, viz., that a practice which may be perfectly regular in time of peace under the municipal regulation of a particular State, will not always satisfy the laws of nations in time of war, more particularly when the voyage may expose the ship to the visit of belligerent cruisers.

The late Judge of the Admiralty Court, Dr. Lushington, laid down in the case of the "Abo," that if cargo has been shipped *flagrante bello*,† the bills of lading ought, on the face of them, to have expressed for whose account and risk the property was shipped. In the present case the ship's manifest was equally silent on the subject, and the master in his examination says: "The goods were to be delivered at Nassau for account and risk of Begbie and Co., the charterers; I know nothing of the qualities, quantities, or

* Vattel, ii, c. 18, s. 350. † Spinks, p. 350.

particulars of the goods, or to whom they would belong if restored and delivered at the destined port."

It must be remembered that the evidence of Mr. Hart, who has now made a declaration, a copy of which formed an inclosure in your letter, was not before the Court, and it was upon the evidence as it stood that the Court said: "That some other destination than Nassau was intended, may be inferred from the fact that the consignment shown by the bills of lading and the manifest was to order or assigns. Under these circumstances it must be taken as a negation that any sale had been made to any one at Nassau. It must also be taken as a negation that any such sale was intended to be made there; for had such a sale been intended it is most likely that the goods would have been consigned for that purpose to some established house named in the bills of lading."

It appears, therefore, that the question under the consideration of the Court was whether any such sale of the cargo at Nassau was intended as would constitute a *bonâ fide* importation, and they considered that the bills of lading would probably, if a real importation into Nassau or a sale of the goods was intended, have disclosed the name of the consignee there, and that the absence of such name was under all the circumstances, a matter from which they might infer that a *bonâ fide* importation was not intended.

Having regard to the very doubtful character of all trade ostensibly carried on at Nassau during the late war in the United States, and to many other circumstances of suspicion before the Court, Her Majesty's Government are not disposed to consider the argument of the Court on this point as otherwise than tenable.

The next argument of the learned counsel, viz., that the character of the cargo, being fitted for blockade-running, was a proof that it was destined for Nassau, which was the great entrepôt for contraband of war, is one to which much weight cannot be attached.

The Court were satisfied with the evidence that these goods, fitted for blockade-running, were, from the first, intended to be carried, after a colourable importation into Nassau, to blockaded ports.

The claimants, who now say, as it appears, that the goods were sent to Nassau with the full knowledge and intention that they should find their way to a blockaded port, gave no explanation, by evidence, as to what was to become of the goods on their arrival at Nassau; and under all the circumstances of time and place, and, in the absence of such evidence, it appears to Her Majesty's Government that the Court was entitled to draw the inference that the consignors of the goods intended to be parties to the immediate transhipment and importation of these goods into a blockaded port, on their being taken out of the "Springbok."

Mr. Mellish and Mr. Harcourt then deal with a statement of the Court that the "Gertrude" was in the harbour of Nassau with the undenied intent to run the blockade about the time when the arrival of the "Springbok" was expected there. When the case was before the District Court, Judge Betts observed that the "Gertrude" might have been expected to arrive in due course at Nassau a few days after the "Springbok." As a fact, her voyage appears to have been delayed, but when she did reach Nassau, after the capture of the "Springbok," she took on board a contraband cargo, upon which the marks and numbers corresponded to some extent with certain marks and numbers on many packages in the "Springbok," and she was captured and condemned without any attempt being made to resist such condemnation. It appears to Her Majesty's Government that the Court did not base their decision upon the ground that the "Gertrude" was to carry on the goods from Nassau. The Court found "that the owners of the cargo intended that it should be transhipped at Nassau in some vessel more likely to succeed in reaching a blockaded port than the "Springbok,'" but it did not find that the "Gertrude" was the intended vessel.

The Supreme Court comments on the fact that not only has no application been made by the claimants to furnish some explanation of suspicious circumstances, but that no claim sworn to personally by either of the claimants has ever been filed; and it certainly appears to Her Majesty's Government not a little strange that Mr. B. W. Hart, who now makes a declaration to show that he was the agent at Nassau to sell the goods for the claimants there, so that they should cease absolutely to have any interest in the goods upon a sale out-and-out at Nassau, never attempted to support the case of the claimants in the Prize Court, and that even now none of the claimants make declarations for the purpose of explaining any of the suspicious circumstances, although in general terms they complain of being victims to unjust suspicions and imputations.

The counsel on whose opinion the claimants rely say: "It is no doubt a very unfortunate circumstance for the claimants that the statement of Mr. B. W. Hart was not put in evidence in the District Court; for, had it been so, we consider that the cargo of the 'Springbok' could not have been condemned. But it must be remembered that at the time the proofs were taken the doctrine of continuous voyages had not been carried to the full extent to which it was ultimately pushed. And the claimants probably thought that when they had proved the vessel had a *bonâ fide* destination to a neutral port, the cargo was in all events free. The materiality of the question of the sale at Nassau was consequently, at that time, not so apparent as it afterwards became." But this suggestion of the learned counsel is uncorroborated by the claimants or by Mr. Hart, who give no explanation of their reasons for keeping silence at the trial or throw any light on the circumstances of a suspicion tending to show that they were engaged in blockade-running.

For the above reasons, therefore, and upon a full consideration of the whole case, Her Majesty's Government do not feel that they would be justified, on the materials before them, in making any claim on the United States' Government for compensation or damages on behalf of the owners of the cargo of the "Springbok."

I am, &c.

(Signed) E. C. EGERTON.

CASE OF THE "PETERHOFF."

No. 1.

Consul Archibald to Earl Russell.—(*Received August* 17.)

My Lord, *New York, August* 3, 1863.

REFERRING to my despatch of the 1st instant, I have now the honour to transmit, herewith inclosed, for the information of Her Majesty's Government, a copy of Judge Betts' Decree condemning the steamer "Peterhoff" and cargo.

The Prize Court is now closed for a time and the Judge has left town. He states it to be his intention, upon the reopening of the Court (which may be expected to take place in about six weeks) to deliver *in extenso* his reasons for the condemnation in this case.

I have, &c.
(For the Consul),
(Signed) PIERREPONT EDWARDS,
Vice-Consul.

Inclosure in No. 1.

Decree of Condemnation by Judge Betts of the "Peterhoff" and Cargo.

UNITED STATES' DISTRICT COURT.

(July Term, 1863.)

The United States, &c., against the Steamer "Peterhoff" and Cargo.—In Prize.

THIS cause having been brought to hearing before the Court upon the pleadings and proofs, and the issues in law and fact involved therein, and upon questions affecting the rules and doctrines of public law in relation to the case, and the rights and liabilities of the respective parties assured thereby; and the admissibility, relevancy, and effect of the various classes and items of proofs heard in the said cause relating to acts or declaration of parties on board the said ship on the voyage in question, and being part of her crew or ship's company, or others having authority to act in her behalf, and whether such evidence direct and positive or presumptive and inferential; as also in respect to acts of misfeasance on the voyage, in the spoliation, mutilation or concealment of papers transported in the ship on such voyage, or attempts to disguise the character of the cargo on board and its destination, and the premises aforesaid with the allegations and arguments of counsel for the respective parties thereupon having been fully heard and understood. It is considered and found by the Court—

1. That the said ship "Peterhoff," in the premises mentioned, was knowingly on the voyage aforesaid, laden in whole or in part with articles contraband of war, and had then in the act of transportation at sea.

2. That her voyage with the said cargo was not truly destined to the port of Matamoras, a neutral port, and for purposes of trade and commerce within the authority

and intendment of public law, but, on the contrary, was destined for some other port or place, and in aid and for the use of the enemy, and in violation of the law of nations.

3. That the ship's papers were similated and false as to her real destination.

Whereupon it is considered by the Court that the said vessel and her cargo are subject to condemnation and forfeiture; and it is ordered that a Decree therefore be entered accordingly.

No. 2.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, October* 31, 1863.

WITH reference to Mr. Stuart's despatch of the 9th instant, I have to inform you that Her Majesty's Government had already received from Mr. Consul Archibald copies of the proceedings in the United States' Prize Court in the case of the "Peterhoff."

Her Majesty's Government have considered these documents, in communication with the proper Law Advisers of the Crown, and I have now to state to you that a perusal of this evidence does not induce Her Majesty's Government to change the opinion at which they had previously arrived as to the inexpediency of any official intervention on their part in the present stage of this case.

The evidence is certainly not "clearly and unequivocally inadequate to sustain the sentence," but, on the contrary, in various particulars tends to sustain it; such as the false swearing of the master, or, at least, the palpable equivocation and disingenuousness of his evidence, the throwing overboard of papers, the contents of which are said to be unknown at the moment of capture, the incredible and conflicting suggestions (in the absence of a true explanation which the claimants might have obtained) as to their contents; and the character of certain portions of the cargo, to say nothing of the letter of Messrs. Bennet and Wake, which Her Majesty's Government presume was made evidence in the cause.

Her Majesty's Government have not, however, before them any Judgment *in extenso*, but little more than a formal Decree of the Prize Court, and they cannot, therefore, tell with certainty upon what particular portions of the evidence or what specific facts the Judge founded that Decree.

Her Majesty's Government presume that a case of so much importance and so elaborately argued has been, or will be, accompanied at some time or other by a further and more reasoned Judgment. Therefore, without expressing any positive opinion that the sentence was unquestionably right, they are clearly of opinion that it is not one which they ought to make the subject of exceptional official intervention with the Executive of the United States, but for which the claimants who consider themselves aggrieved should resort to the usual and proper remedy of an appeal to the Supreme Court.

I am, &c.
(Signed) RUSSELL.

No. 3.

Consul Archibald to Earl Russell.—(*Received March* 26.)

My Lord, *New York, March* 11, 1864.

I HAVE the honour to transmit herewith inclosed, addressed to your Lordship, six copies of the published Report of the opinion of Judge Betts in pronouncing his judgment in the case of the steamer "Peterhoff," and cargo; with an Appendix, containing the opinions of Judge Marvin in the cases of the "Dolphin" and "Pearl" adjudicated at Key West.

I have, &c.
(Signed) E. M. ARCHIBALD.

Inclosure in No. 3.

Extract from the Opinion of Judge Betts.

(After a lengthy review of the evidence.)

UPON all the proofs in the case, therefore, notwithstanding the ostensible destination of the "Peterhoff" to neutral waters at the mouth of the Rio Grande, the actual hostile destination of the cargo must be considered as established. In arriving at this conclusion I have, as heretofore stated, not given any weight to the circular letter of James I. Bennet and Wake, of the 24th November, 1862, produced upon the hearing, nor do I regard it as necessary, in consequence of any doubt I have as to the proper disposition to be made of this case, to open the case for further proof, in order to allow the introduction of that letter in evidence. It is apparent, from a mere reading of the letter, that every circumstance proved in evidence in respect to the "Peterhoff" and her cargo is entirely consistent with the course of trade, marked out so specifically in the letter, in respect to carrying goods into the country of the enemy and bringing back cotton in return, and is entirely inconsistent with any honest destination of the cargo to a Mexican market for use or sale there. In addition, we have the fact, brought to light in the correspondence of the 27th October, 1862, between Pile, Spence, and Co. and their brokers, that the "Peterhoff" was to bring home a cargo of cotton from the Rio Grande; the recommendation in the circular letter of Redgate as being "an expert in cotton," "resident nearly forty years in Texas and Mexico," and a gentleman whose services would be "of great value to shippers, in respect to his local knowledge and influence, as also as regards agency of the inland transit, and landing and shipping of goods and cotton;" the fact, stated in the circular letter, that it was written for the guidance of those who might be "desirous of shipping to America," not to Mexico; the facts, stated in that letter, that "a Mr. Besbie, of the Confederate States of America, holds a contract from that Government, whereby he is to receive 100 per cent. on invoice cost, payable in cotton, at specie value, clear of all charges of freight, &c., for any goods he may deliver into the Confederate States," that such contract "has been authenticated by Mr. Mason and others," and that Besbie is willing to share the same, "say to the extent of 50 per cent., with any houses who may feel inclined to ship;" the facts that Besbie, as testified to by several witnesses, came on board of the "Peterhoff" at Plymouth, and left her again at Falmouth, that he was an American, and an officer in the "Confederate" army, and had his sword with him, and that when he left the vessel he announced his intention of going out to Mexico by another conveyance; the fact that the circular letter announces that shippers may send out their own supercargoes, that they need not avail themselves of Besbie's contract, but that, if they do not, they will not be sure of getting cotton, "as the waggon traffic cannot be properly carried on without the aid of Government support, in the shape of teamsters to attend to cattle, and which the Confederate Government will supply from the army, to facilitate the inland transport of goods and the bringing back of cotton for the contract," and that in the event of peace "the Confederate Government, by the contract, binds itself to receive goods that are shipped but not delivered, and for any orders not shipped, but in course of same, 10 per cent. profit upon invoice cost and charges." The contents of the circular letter, when viewed in the light of the evidence in the case, would, therefore, entirely warrant the Court in holding that that letter, if necessary to be proved, and if proved in a proper manner, would be very material evidence to show the real character of the voyage of the "Peterhoff" and the true destination of her cargo.

Contraband articles, destined for the use of the enemy were found on board of the "Peterhoff," covered by bills of lading endorsed to each of the claimants on the record, namely, Captain Jarman, Redgate and Almond, and Bowden, who is represented by Redgate.

Contraband articles were also found, destined for the use of the enemy, shipped by Spence, the owner of the vessel. Therefore, all the claimants of the vessel and cargo had on board contraband articles, which were destined to be delivered directly, or indirectly by transhipment, into the enemy's country, and for the use of the enemy, and not for sale or disposition in the neutral market of Mexico. The evidence is clear that all the cargo on board was really represented by, and under the control of, Captain Jarman, Redgate, Almond, and Bowden. Consequently, not only were the contraband articles subject to lawful capture by a vessel of the United States, but the other articles on board, belonging to, or represented by, Captain Jarman, Redgate, Almond, Bowden, and Spence, embracing the entire cargo of the vessel, were subject to like lawful capture,

notwithstanding the vessel was, at the time of her capture, on an ostensible voyage from England to neutral waters at the mouth of the Rio Grande.

The settled rule of law is that where contraband articles, destined for the use of the enemy, are found on board of a vessel, all other goods on board of that vessel belonging to the owner of the contraband articles, even those goods which are innocent, must share the fate of the contraband goods. (Halleck on International Law, Ch. 24, § 6, p. 573; 3 Phillimore on International Law, § 277; 2 Wildman's International Law, 217; the "Sarah Christina," 1 Ch. Rob., 237.)

I have already, in this opinion, referred to the authorities which establish the principles of Prize Law which lead to the condemnation of this cargo. I discussed those principles very fully in the cases of the "Stephen Hart" and the "Springbok," but there are some features in the present case which demand special remark. The "Stephen Hart" was bound, on her papers, to Cardenas, in Cuba, and the "Springbok" to Nassau, N. P. Those ports, though sufficiently near the country of the enemy to induce their use for the trade in which those vessels were engaged, were yet sufficiently distant to expose their cargoes to great hazard of capture in their transit after transshipment from those ports to the enemy's ports. But the transit of the cargo of the "Peterhoff" from the neutral waters at the mouth of the Rio Grande into the enemy's country would have been attended with no danger whatever, those neutral waters being on the very border of the enemy's country. Every bill of lading of the cargo of the "Peterhoff" (and the thirty-nine bills of lading found on board covered the entire cargo) contains a provision that the goods are to be taken from alongside of the ship at the mouth of the Rio Grande, within thirty days, in lighters, provided such lighters can cross the bar; and the stipulation on the part of the vessel in every bill of lading is to deliver the goods off the Rio Grande, in the Gulf of Mexico. After the lighters had crossed the bar and ascended the Rio Grande, which is the dividing line between the country of the enemy and Mexico, their freight might as well and as securely be delivered in the enemy's country, on the left bank, as in the Mexican territory, on the right bank, and any transit of the goods through Matamoras, on their way to Texas, could not deprive the goods of the destination to the enemy's country, originally intended for and impressed upon them. If a pretended neutral commerce of this character, enjoying such facilities for the introduction of contraband goods into the enemy's country, can be carried on without interference, and if the ostensible destination of a vessel, on her papers, to neutral waters at the mouth of the Rio Grande, be sufficient, even when attended by all the circumstances which appear in evidence in this case, in respect to the vessel and her cargo, to exempt both from seizure and condemnation, a very wide door will have been opened for the practice of fraud upon the belligerent rights of the United States; and the commerce of neutrals with the enemy, in supplying them with contraband articles, can go on in safety to an unlimited extent. The naked doctrine upon which this immunity is sought to be upheld is, that whatever the character of the cargo, and whatever its ulterior destination, it is protected from lawful capture so long as the vessel on board of which it is laden is pursuing a voyage between neutral ports. The unsoundness of this doctrine has been fully demonstrated.

There is another principle of law, which has been applied by the Court of Admiralty in England to cases like the present one, and which has been pressed upon the Court in this case by the special counsel for the captors. He maintains that where the neutral port of neutral territory lies in such immediate proximity to a port or territory of the enemy, as to render it impossible to prevent contraband articles from going immediately from one port or territory to the other, it is as much a violation of neutral obligations, to be followed by confiscation of the property when seized, to introduce contraband articles into the port or territory of the neutral in time of war, as it is to carry them directly to the enemy's port or territory; that such was the position of the neutral waters at the mouth of the Rio Grande, and of the neutral port of Matamoras, in respect to the State of Texas and the port of Brownsville; that lighters, laden with contraband articles, leaving a vessel at the mouth of the Rio Grande, and ascending that river to deliver their freight at Matamoras, might as well deliver it at Brownsville, directly opposite, so far as regards the possibility of preventing such contraband articles from reaching the enemy; and that it is not a sound proposition that the proximity of a neutral port to the country of the enemy cannot in any manner affect or impair neutral rights in respect to commerce with such neutral port.

We have, indeed, the high authority of Sir William Scott, for saying that the enforcement of belligerent rights demands and justifies a restriction upon the commerce of neutrals with a neutral port thus situated; and he enforced such restriction.

In the "Zelden Rust" (6 Ch. Rob., 93), a quantity of Dutch cheese, a contraband

article, was on board of a vessel destined to Corunna, in Spain. It was contended by the King's Advocate, that a destination to Corunna, a lawful port, was, in fact, a destination to Ferrol, an unlawful port, since those ports were both in the same bay, and so situated as to render it impossible to prevent supplies from going immediately to Ferrol for the use of the Spanish navy if they were permitted to enter the bay unmolested under an asserted destination to Corunna.

Sir William Scott, after holding cheese to be a contraband article, says:—

"Corunna, is, I believe, itself a place of naval equipment in some degree; and if not so exclusively, and in its prominent character, yet, from its vicinity to Ferrol, it is almost identified with that port. These ports are situated in the same bay, and, if the supply is permitted to be imported into the bay, it would, I conceive, be impossible to prevent it from going on immediately, and in the same conveyance, to Ferrol. There is, in this respect, a material difference between the present case and the case which happened yesterday" (the "Frau Margaretha," 6 Ch. Rob., 92") "of similar articles going to Quimper. That port, though in the vicinity of Brest, is situated on the opposite side of a projecting headland or promontory, so as not to admit of an immediate communication, except by land carriage. Without meaning to interfere with the principle of that decision, I think myself warranted to consider this cargo on the present destination as contraband, and as such, subject to condemnation."

On the principle of this decision, the cargo of the "Peterhoff" was lawfully captured and liable to condemnation, even though it was honestly destined to the port of Matamoras, to be there used or sold.

The principle thus maintained in the case of the "Zelden Rust," is recognized in the decision of the same Judge, in the case of the "Maria" (6 Ch. Rob., 201). In that case the French, then enemies of Great Britain, were in possession of one bank of the River Weser, the neutral port of Bremen being on the other bank, and a blockade of the river had been instituted by Great Britain. The cargo of the vessel was sent from Bremen in lighters to the Jade, to be shipped to America, while the vessel herself went in ballast from the Weser to the Jade, and there took on board her cargo. In delivering his opinion, in that case, Sir William Scott says (p. 203):—

"A blockade imposed on the Weser must, in its nature, be held to affect the commerce of Bremen, because, if the commerce of all the towns situated on that river is allowed, it would be only to say, in more indirect language, that the blockade itself did not exist. It cannot be doubted, then, on general principles that these goods would be subject to condemnation, as having been conveyed through the Weser, and whether that was effected in large vessels or in small, would be perfectly insignificant. That they were brought through the mouth of the blockaded river for the purpose of being shipped for exportation, would subject them to being considered as taken on a continued voyage, and as liable to all the same principles that are applied to a direct voyage, of which the *terminus a quo* and the *terminus ad quem* are precisely the same as those of the more circuitous destination."

Thus, the Court of Admiralty of Great Britain condemned contraband goods going to the neutral port of Corunna, where there was no suspicion of their being destined to the hostile port of Ferrol upon the sole ground that it would be impossible to prevent those articles, when they reached Corunna from going immediately to Ferrol if they were permitted to enter unmolested waters that were common to both of those ports. And the same Court condemned goods which were carried from the neutral port of Bremen through the mouth of the blockaded river on which it is situated upon the ground that the blockade could not exist for any practical purpose, unless the commerce of Bremen, although neutral, was to be affected by it; and it held the doctrine that if goods could not reach the sea from Bremen without going through the blockaded waters they could not depart from Bremen at all.

The necessity of the case was held under the law of nations to justify, in the one case, the stoppage of commerce in contraband articles to Corunna; and, in the other case, the stoppage of all commerce from Bremen. The justification for the rule urged in the one case was that the articles, if permitted to go to Corunna, could not be prevented from going to Ferrol; and, in the other case, that the blockade could not exist without affecting the commerce of Bremen. These principles, if applied by this Court to the case of the "Peterhoff," as being necessary for the maintenance of the belligerent rights of the United States, with respect to the neutral waters of the mouth of the Rio Grande, and to commence with the port of Matamoras, would justify the condemnation of the cargo, not only the contraband portion, but that which was not contraband.

I am not prepared, however, to apply those principles of this case, or to express an

approval or disapproval of their soundness. The necessities of the case do not, in my opinion, demand a decision upon those points.

It is apparent, from the terms of the correspondence of the 27th October, 1862, between James I. Bennett and Wake and Pile, Spence, and Co., that the adventure of the "Peterhoff," in taking out a cargo to the Rio Grande with the intention of bringing home, in return, a cargo of cotton was an adventure in which James I. Bennett and Wake, as brokers, and Pile, Spence, and Co., as representing Joseph Spence, a member of that firm, and the owner of the "Peterhoff," were to be interested jointly. No charter of the vessel from Spence to any person has been produced unless the correspondence referred to is to be considered as a charter. James I. Bennett and Wake were employed as brokers, directly by Pile, Spence, and Co., on behalf of Spence, to obtain the outward cargo for the vessel, and, as such brokers, their names appear on the manifest.

Captain Jarman says that he was appointed to the command of the vessel by Spence, and that she was delivered to him by Spence. According to the well-settled rule of law, therefore, Spence must be held responsible for all that was done by his agent, Captain Jarman, and for the employment of the vessel by Captain Jarman, knowingly, in carrying contraband articles to the country of the enemy irrespective of the fact that Spence himself shipped on board of her as an adventure, ninety coils of tarred hemp rope, which are found to have been contraband articles going to the country of the enemy, and, also, the cotton press and the smith's bellows and anvils and various other articles.

Where the vessel belongs to the owner of the contraband articles, or where there are circumstances of fraud as to the papers or the destination of the vessel or the cargo, and thus an attempt, under colourable appearances, to defeat the rights of a belligerent, the vessel which carries the contraband articles will be condemned and the penalty of the vessel will not be limited merely to a loss of freight and expenses. (The "Ringende Jacob," 1 Ch. Rob., 89; the "Jonge Tobias, Id., 329; the "Franklin," 3 Ch. Rob., 217.) So, too, the vessel will be condemned, not only where her owner is privy to the carriage of contraband, but where the master of the vessel, as the agent of such owner, interposes so actively in the fraud, as to consent to give additional colour to it by sailing with false papers. (The "Franklin," 3 Ch. Rob.. 217, 221, note; the "Mercurius," 1 Ch. Rob. 288, note; the "Edward," 4 Ch. Rob., 68; the "Neutralitet," 3 Ch. Rob., 295; Carrington *v.* the Merchants' Insurance Company, 8 Peters, 495, 520, 521.) So also, if the owner of a vessel places it under the control of a master, who permits it to carry, under false papers, contraband goods, ostensibly destined to a neutral port, but in reality going to the country of the enemy, he must sustain the consequence of such misconduct on the part of his agent. (The "Ranger," 6 Ch. Rob., 125; Jecker *v.* Montgomery, 18 Howard, 110, 119; the "Mercurius," 1 Ch. Rob., 80.) A neutral owner of a vessel is, as a general rule, held responsible for all the acts of the master of his vessel, committed in violation of the rights of a belligerent. (The "Vrouw Judith," 1 Ch. Rob., 150; the "Columbia," 1 Ch. Rob., 154: the "Hiawatha," 2 Black, 635, 678.)

I can come to no other conclusion in this case, than that the acts of Captain Jarman, in signing bills of lading of the character of those in the present case, and in sailing with a manifest giving no adequate information as to the contraband goods on board, and in causing the destruction of papers, and in fabricating the absurd story about the white powder, and, in addition, in testifying (Int. 11) that the vessel, the whole of whose cargo, except the cases directed to Burchard and Co., was, as he says (Int. 14), represented by Almond, Redgate, Bowden, and himself, had no goods on board which he considers contraband of war, and in averring his inability (Int. 13) to specify the contents of his cargo, when he, himself, was the indorsee of bills of lading covering contraband articles, must be regarded as evidence that he entered upon a systematic course of concealment of the real character of the contraband articles on board, so as to subject the vessel to condemnation as the result of such fraud, when, under other circumstances, she might go free, even though her cargo were confiscated. (Moseley on Contraband of War, 97, 98.) A master is, in time of war, bound to know the contents of his cargo, and cannot be permitted to aver his ignorance of the contents of contraband packages on board of his vessel. (The "Oster Risoer," 4 Ch. Rob., 199.)

The capture of the "Peterhoff" on the high seas, at the place of her capture, was lawful. From the moment a vessel, having on board contraband articles, which have a destination to the enemy's country, leaves her port of departure, she may be legally captured; and it is not necessary to wait until the goods are actually endeavouring to enter the enemy's country, the penalty attaching the moment the illegal transportation commences. (Halleck on International Law, chap. 24, section 7, p. 573; 2 Wildman's

"International Law," 218; 1 Duer on Insurance, 626, section 7; the "Imina," 3 Ch. Rob., 167; the "Trende Sostre," 6 Ch. Rob., 390, note; the "Columbia," 1 Ch. Rob., 154; the "Neptunus," 2 Ch. Rob., 110.)

An appeal to the Supreme Court was taken in this case, in ten days after the Decree was made, and the vessel was taken by the Navy Department, for the use of the Government, at an appraised valuation of 80,000 dollars. No application was made to the Court, on the part of the claimants, for leave to put in further proof, and most clearly this is not a case where the privilege of further proof would be tendered to the claimants.

The vessel and cargo are, both of them, condemned.

Appendix.

District Court of the United States for the Southern District of Florida.

The United States v. *the Steamer "Dolphin" and her Cargo.—In Prize.*

Opinion of the Court.

MARVIN, J. This steamer, of the net burthen of 129 tons, Eustace, masetr, was captured by the United States' vessel "Wachusett," near the Island of Porto Rico, while ostensibly prosecuting a voyage from Liverpool to Nassau.

A claim to the vessel and cargo has been exhibited by the master, on behalf of William J. Grazebrook, a merchant, residing in Liverpool, who, it appears, shipped the whole cargo, and consigned it by bills of lading to his own order, and by the freight bill accompanying it to Messrs. Chambers and Raw, of Nassau.

Surveyors appointed by the Court to examine the cargo, which consists of a general assortment, report that it corresponds, in the number of the packages, their marks and contents, with the freight list found on board, except as to 46 cases which contain rifles, and 20 cases which contain cavalry swords, all of which are classed in the freight list as "hardware." Each case of rifles contains 20 rifles, and each case of swords 112 swords; 13 small boxes containing cotton cards were found on board, which are not on the freight list; also one box of paint brushes.

If we suppose the vessel and cargo to be owned as claimed, and that there was no intention on the part of the owner that the vessel should proceed with the cargo to a port of the enemy, then there would be no ground whatever to justify the capture or condemnation of either of them. Subject to the right of belligerent cruisers to visit and search merchant vessels, to ascertain their neutral or hostile characters, and the characters of their cargoes, and the legality of their voyages, neutrals possess an undisputed right to trade and carry on commerce among themselves in any kinds of merchandize they please, whether of the nature of contraband of war or not. Indeed, there can be no such thing as articles contraband of war, in a strictly neutral trade. But if, on the other hand, it was the intention of the owner that the vessel should simply touch at Nassau, and should proceed thence to Charleston or some other port of the enemy, then the voyage was not a voyage prosecuted by a neutral from one neutral port to another, but was a voyage to a port of the enemy, begun and carried on in violation of the belligerant rights of the United States to blockade the enemy's ports and prevent the introduction of munitions of war. The act of sailing for a blockaded port, with a knowledge of the existence of the blockade, and with an intent to enter, is itself an attempt to break it, which subjects the vessel and cargo to capture in any part of the voyage. (The "Columbia," 1 Ch. Rob., 154; The "Neptunus," 2 Ch. Rob., 110.) So, also, the offence of attempting to carry articles contraband of war to the enemy is complete, and the vessel liable to capture the moment she enters upon her voyage. (The "Imina," 3 Ch. Rob., 167.) The offence consists in the act of sailing, coupled with the illegal intent.

The cutting up of a continuous voyage into several parts, by the intervention, or proposed intervention, of several intermediate ports, may render it the more difficult for cruisers and Prize Courts to determine where the ultimate terminus is intended to be; but it cannot make a voyage which, in its nature, is one, to become two or more

voyages, nor make any of the parts of one entire voyage to become legal, which would be illegal if not so divided. When the truth is discovered, it is according to the truth, and not according to the fiction, that the question is to be determined. (The "Maria," 5 Ch. Rob., 365; the "William," Id., 385; the "Richmond," Id. 325; the "Thomyris," Edw. Adm. Rep., 17.)

It is argued, that it was lawful for the vessel to go to Nassau, notwithstanding the existence of an intention that she should proceed thence to Charleston; for the reason that, until after she had entered on the last stage of her voyage, the whole matter rested in possibility merely—in intention only, and not in act—and that the intention to commit an offence *in futuro*, is not tantamount in law to its actual commission *in præsenti*. But this argument begs the whole question. It was not lawful for the vessel to go to Nassau, with an intention of continuing the voyage thence to Charleston, any more than it would be lawful for her to go to Charleston in a direct course, without going to Nassau at all. The fallacy consists in supposing, that there is something in the intention to stop at a neutral port, which, in itself, is innocent enough, that will extinguish the illegality of an additional guilty intention to proceed on, beyond such a port, to a blockaded port, and thus legitimize the first stage of the voyage. But the voyage is one, from the port of lading to the port of delivery, and, if unlawful in any part, is unlawful throughout.

It is also argued that a *locus penitentiæ* existed until the vessel had departed from Nassau, on her way to a blockaded port; and that the voyage might be ended there, or changed to a lawful port. But this argument will apply, with equal force, to a voyage in which no intermediate port is intended to be interposed. The owner or master may, in any case, in port or in the middle of the ocean, abandon the illegal purpose, and change the voyage. If this be done voluntarily, before capture, the original offence is extinguished, and the vessel will be restored; but, if the illegal purpose exists at the time of capture, the vessel is taken *in delicto*, whether the voyage is prosecuted in a direct course or circuitously. If the illegal purpose is shown to exist at the inception of the voyage, it will be presumed to exist up to the time of capture, unless it is satisfactorily shown that the purpose had been abandoned and the voyage changed. (The "Imina," 3 Ch. Rob., 167.)

Let us see now what the testimony is in relation to the fact of the existence of an intention, at the time of capture, that the vessel should proceed to a blockaded port. The master, in his affidavit made in support of the claim, swears, "that said voyage, of his own positive knowledge, would have terminated at Nassau, N.P., had said voyage not been arrested by the capture aforesaid; that this deponent's instructions were positive and unconditional, requiring him to proceed to Nassau, and deliver said steamer to Chambers and Raw; that, when he had so delivered said steamer, this deponent's connection with said steamer ceased; that he had no further command or control over the same; and he further says, that, of his own knowledge, said voyage was to end at Nassau."

Prize Courts often have occasion to echo the remark made by Sir William Scott, in delivering his opinion in the case of the "Odin," (1 Ch. Rob., 252:) "It is a wild conceit that any Court of Justice is bound by mere swearing; it is the swearing credibly that is to conclude its Judgment." The master does not tell us how he acquired such positive knowledge of the intentions of the owner, nor show us any written instructions to end the voyage at Nassau, or to deliver the vessel to Chambers and Raw, nor tell us what disposition or use was to be made of the vessel or cargo after arriving at that port. Vincent Lazzalo, the mate, swears that the voyage would have ended at Nassau, had the vessel not been captured. Banning, the purser, swears that the vessel would have been subject, at Nassau, to the orders of Messrs. Chambers and Raw, the consignees. Leefe, the cook, thinks the vessel would have returned from Nassau to Liverpool. The other witnesses generally concur in saying that they do not know what port the vessel would have gone to after leaving Nassau. The captain says that, "the crew were shipped in Liverpool for a voyage to Nassau, to be thence sent home to England, for a period not exceeding three months." The mate says, that the captain hired him at Liverpool, for a voyage from Liverpool to Nassau, for 12*l.* per month and his passage home, the wages to go on until he arrived back in Liverpool. The shipping agreement states the voyage to be from "Liverpool to Nassau, calling at any ports and places in the Atlantic Ocean and West Indies, and back to a final port of discharge in the United Kingdom, the term not to exceed three months."

Now, it is hardly credible that this vessel was to end her voyage at Nassau. For what was she going, and how was she to be employed there? It is not suggested that she was going there for sale. Was she to be employed in making short voyages suited

to her capacity to and from blockaded ports, which so many or all of the other steamers of about her size, which have lately come out from England to Nassau, have been employed in making until captured? Except such voyages, it would be difficult to think of any trade she could engage in at Nassau, or at any other port in the West Indies by which she could defray the expenses of running. What was to be done with the cargo? It was to be delivered to Chambers and Raw. But what were they to do with it? Nassau furnishes no market for any such cargo as this. It is a small town. The adjacent islands possess but a small population, dependent on it for supplies. Probably not three merchant-steamers ever arrived at that port from any part of the world until after the present blockade was established, except the regular Government mail-steamers. Was her cargo to be sold in Nassau, including the 920 rifles and the 2,240 swords? These are questions which it is not unreasonable that a Prize Court should ask, and expect some reasonable solution of, in a case like this.

But, fortunately, the Court is relieved of the labour of considering any further the testimony furnished by the shipping agreement and by the depositions of the master and crew, or of weighing any more accurately the presumptions and probabilities which arise in the case as to the ulterior destination of the ship and cargo. There is other testimony in the case furnished by Mr. Grazebrook himself, which seems to the Court to be conclusive. Three letters of his were found on board, and are in evidence before the Court. One of them is as follows:—

"Messrs. Chambers and Raw, Nassau:

"Dear Sirs, "*Per 'Dolphin,' Liverpool, February* 6, 1863.

"This will be handed you by Captain Eustace. I hope the cargo will have arrived in good condition, and will be found suitable for the requirements of the place. I have sent more crockery than we intended, and it has filled up the ship. I think they have sent too many chambers for the assortment. However, the goods are very much according to your specifications sent me from time to time. I am a little afraid your market may be overdone from New York and the States. If the French charter for the army stores, rum, &c., has fallen through, I fancy a fine trade is to be done between Nassau and Boston and New York, or it may be the Canadas, if this war continues, and coal must be greatly wanted for the blockade runners. You might arrange for a return cargo of coal from Prince Edward's Island. I have no doubt you will find plenty of good employment for my steamer. If the Federals, or any one, will pay a right down handsome sum for her, I might sell her; but I will have none of your Federal or Confederate paper in exchange for my tight little ship. It must be hard cash.

"Yours truly,

(Signed) "W. J. GRAZEBROOK."

One of the letters, bearing the same date as the above, was addressed to the master; and, after instructing him upon the subject of procuring coals at Madeira and St. Thomas for his voyage out to Nassau, the writer says:—

"I expect the French army at Vera Cruz will want rum and many articles which you may obtain after discharging at Nassau. I am sure a good trade is to be done in those latitudes, after we have got rid of your present cargo. Coals, also, are sure to be wanted at Nassau, and the coals at Prince Edward's Island are good and cheap—cost 15*s*. per ton. Messrs. Chambers and Raw will probably have the charter arranged for the French Government they wrote about; if not, you must find, in concert with them, some profitable employment. Perhaps trading between Boston or New York, with goods for the Nassau market, would pay well."

Now, these two letters do not say a word about ending the voyage at Nassau or paying off the crew, or returning them to England. They were evidently given to the master, not as instructions to him, or to Messrs. Chambers and Raw, but in order to be shown to our cruisers in case the vessel should be visited by any of them. They are a mere blind and pretence, intended to deceive, and to convey the idea that the vessel was to be employed in some lawful trade. But the intention of the writer was not cleverly executed. Very few, if any, of our cruisers would be apt to believe that a steamer no larger than this was to be employed in carrying coals from Prince Edward's Island to Nassau—a voyage on which she could hardly carry coals enough for her own consumption—or in carrying rum to the French army, or in trading between Boston or New York and Nassau.

But there was a third letter, which was not intended to be shown to the cruisers, dated four days later, and addressed to Messrs. Chambers and Raw. Its contents were

probably unknown to the master, for, had he known the contents, it is quite likely it would not have fallen into the hands of the captors.

It reads as follows:—

"Messrs. Chambers and Raw, Nassau:

"Dear Sirs, "*Per steamer 'Dolphin,' Liverpool, February* 10, 1863.

"I addressed you the 6th February for a certain reason. I now beg to cancel those instructions entirely, and, of course, my vessel is not to be sold to any one. I shall be sending you a power of attorney for certain purposes by next mail this week. I hope you will be able to get some more goods on, instead of taking any off, and at good rates.

"I am, &c.
(Signed) "W. J. GRAZEBROOK.

"P.S.—I send various letters to forward."

So it appears that Mr. Grazebrook did not intend that his vessel should be sold at Nassau, nor that she should end her voyage there. She was to go from Nassau somewhere. More goods were to be put on instead of taking any off. The studied effort to conceal the ulterior destination, the swords and rifles found on board, and denominated in the freight list "hardware," the almost certain impossibility of employing a steamer of this class and size in any trade in this part of the world by which she could earn even her expenses, other than in the trade and business of violating the blockade, all point with unerring certainty to Charleston or Wilmington as the ulterior destination of the vessel and cargo. Condemnation of ship and cargo follows, of course.

The view that I have taken of the case renders it quite unnecessary to call for further proof of neutral ownership, or to inquire whether this cargo, or a large part of it, may not be owned by enemies. The fact that there are twenty-three different sets of bills of lading among the papers of the vessel, and as many different shipping marks upon the packages and in the freight list, raises a suspicion, to say the least, that Mr. Grazebrook is not the sole owner. No invoices of the cargo were found on board, nor the various letters referred to in the postscript to Mr. Grazebrook's letter.

The claimants may be allowed any reasonable length of time to consult counsel, and determine whether he will appeal or not.

No. 4.

Earl Russell to Lord Lyons.

My Lord, *Foreign Office, April* 22, 1864.

HER Majesty's Government have considered, in communication with the Law Advisers of the Crown, a despatch from Mr. Consul Archibald, of the 11th March, inclosing a pamphlet containing the Judgment of Judge Betts in the case of the "Peterhoff," and the opinion of Judge Marvin in the cases of the "Dolphin" and the "Pearl," and I have to state to your Lordship that Her Majesty's Government do not consider that the decisions in the cases of the "Peterhoff" and the "Dolphin," by which those vessels were condemned as lawful prize, call for any intervention on their part.

Her Majesty's Government, without adopting all the reasons assigned in these Judgments (in some of them, indeed, they do not concur), are not prepared to say that the decisions themselves, under all the circumstances of the cases, are not in harmony with the principles of the Judgments in the English Prize Courts.

With respect to the case of the "Pearl" Her Majesty's Government consider that the course pursued by the Judge is fair and equitable.

I am, &c.
(Signed) RUSSELL.

No. 5.

Messrs. Reed and Phelps to Earl Russell.—(Received February 21.)

My Lord, 3, *Gresham Street, London, February* 20, 1865.

WITH reference to the claim of Mr. Robert Bowden upon the Government of the United States of America for compensation in respect of his illegal arrest on board the British steamer "Peterhoff" and subsequent detention, in respect of which we last had the honour to address your Lordship on the 13th October, 1863, and to which your Lordship (through the Under-Secretary of State for Foreign Affairs) was pleased, on the 28th November, to reply that having been advised by Her Majesty's Law Officers that it would not be proper for Her Majesty's Government to make any representations to the Government of the United States respecting claims arising out of the capture of the "Peterhoff" until the appeal made from the decision of Judge Betts should have been decided by the Supreme Court.

We have now the honour to recur to such claim and to draw your Lordship's attention to a Judgment pronounced by Her Majesty's Court of Common Pleas establishing as we humbly submit the illegality of the capture of the vessel and cargo, and as a necessary consequence the impropriety of the arrest of Mr. Bowden.

The action in which the Judgment was pronounced had for its object the recovery of certain insurances upon portions of the cargo. The insurers relied as a defence (amongst other things) upon the seizure and condemnation of the vessel and cargo by the United States' authorities and the Judgment of the Prize Court was set out in terms of the Decree of condemnation.

This Judgment was impeached by the insured, and after a full argument of the matter the Court of Common Pleas held (in effect) that it would not prevail as against the claim set up by the assured.

We take the liberty to forward to your Lordship a copy* of the shorthand note of the Judgment of the Court of Common Pleas in the action before alluded to, and we have humbly to ask that your Lordship will be pleased to take some step on behalf of Mr. Bowden towards obtaining for him the compensation he asks for from the Government of the United States.

We may here remark that we have been informed that some time before the rising of the Supreme Court the appeal in respect of the "Peterhoff" stood within two or three cases from the head of the list, but that, for some unknown reason, it was on the assembly of the Court placed after some 200 or 300 cases which had been previously in the list for argument.

It would appear from this that the United States' authorities are concerned in delaying the hearing of the appeal for as long a period as possible.

We have, &c.

(Signed) REED AND PHELPS.

No. 6.

Foreign Office to Messrs. Reed and Phelps.

Gentlemen, *Foreign Office, March* 7, 1865.

WITH reference to my letter of the 23rd ultimo, I am directed by Earl Russell to inform you that he has considered, in communication with the Law Advisers of the Crown, your letter of the 20th ultimo respecting the case of the "Peterhoff" and Mr. Bowden's case; and I am to acquaint you that his Lordship is advised that the Judgment in the Court of Common Pleas to which you refer furnishes no ground whatever for the official interference of Her Majesty's Government with the United States' Government on behalf of the owners of the goods captured on board the "Peterhoff" or of Mr. Bowden.

I am, &c.

(Signed) E. HAMMOND.

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*not printed.

MISCELLANEOUS. No. 1 (1900).

CORRESPONDENCE respecting the Seizure of the British Vessels "Springbok" and "Peterhoff" by United States' Cruisers in 1863.

Presented to both Houses of Parliament by Command of Her Majesty. March 1900.

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